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Price: EUR 3

⁽¹⁾ Text with EEA relevance

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Legislative acts)

DIRECTIVES

DIRECTIVE 2010/30/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 May 2010

on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After having consulted the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Council Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances ⁽³⁾ has been substantially amended ⁽⁴⁾. Since further amendments have to be made, it should be recast in the interests of clarity.

(2) The scope of Directive 92/75/EEC is restricted to household appliances. The Commission Communication of 16 July 2008 on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan has shown that the extension of the scope of Directive 92/75/EEC to energy-related products which have a significant direct or indirect impact on energy consumption during use could reinforce potential synergies between existing legislative measures, and in particular Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy related products ⁽⁵⁾. This Directive should not prejudice the application of Directive 2009/125/EC. Together with that Directive and other Union instruments, this Directive forms part of a broader legal framework and, in the context of a holistic approach, brings about additional energy savings and environmental gains.

(3) The Presidency conclusions of the European Council of 8 and 9 March 2007 emphasised the need to increase energy efficiency in the Union so as to achieve the objective of saving 20 % of the Union's energy consumption by 2020, set targets for the EU-wide development of renewable energies and the reduction of greenhouse gas emissions and called for a thorough and rapid implementation of the key areas identified in the Commission Communication of 19 October 2006 entitled 'Action Plan for Energy Efficiency: Realising the Potential'. The action plan highlighted the enormous energy savings opportunities in the products sector.

(4) Improving the efficiency of energy-related products through informed consumer choice benefits the EU economy overall.

⁽¹⁾ OJ C 228, 22.9.2009, p. 90.

⁽²⁾ Position of the European Parliament of 5 May 2009 (not yet published in the Official Journal), position of the Council at first reading of 14 April 2010 (not yet published in the Official Journal), position of the European Parliament of 18 May 2010 (not yet published in the Official Journal).

⁽³⁾ OJ L 297, 13.10.1992, p. 16.

⁽⁴⁾ See Annex I Part A.

⁽⁵⁾ OJ L 285, 31.10.2009, p. 10.

- (5) The provision of accurate, relevant and comparable information on the specific energy consumption of energy-related products should influence the end-user's choice in favour of those products which consume or indirectly result in consuming less energy and other essential resources during use, thus prompting manufacturers to take steps to reduce the consumption of energy and other essential resources of the products which they manufacture. It should also, indirectly, encourage the efficient use of these products in order to contribute to the EU's 20 % energy efficiency target. In the absence of this information, the operation of market forces alone will fail to promote the rational use of energy and other essential resources for these products.
- (6) It should be recalled that Union and national legislation exists which gives certain rights to consumers with respect to purchased products, including compensation or exchange of the product.
- (7) The Commission should provide a priority list of energy-related products that could be covered by a delegated act under this Directive. Such a list could be included in the Working Plan referred to in Directive 2009/125/EC.
- (8) Information plays a key role in the operation of market forces and it is therefore necessary to introduce a uniform label for all products of the same type, to provide potential purchasers with supplementary standardised information on those products' costs in terms of energy and the consumption of other essential resources and to take measures to ensure that potential end-users who do not see the product displayed, and thus have no opportunity to see the label, are also supplied with this information. In order to be efficient and successful, the label should be easily recognisable to end-users, simple and concise. To this end the existing layout of the label should be retained as the basis to inform end-users about the energy efficiency of products. Energy consumption of and other information concerning the products should be measured in accordance with harmonised standards and methods.
- (9) As pointed out in the Commission's Impact Assessment accompanying its proposal for this Directive, the energy labelling scheme has been followed as a model in different countries around the world.
- (10) Member States should regularly monitor compliance with this Directive, and include the relevant information in the report that they are obliged to submit every four years to the Commission under this Directive, with special regard to the responsibilities of suppliers and dealers.
- (11) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products⁽¹⁾ contains general provisions on market surveillance relating to the marketing of products. In order to achieve its aims, this Directive provides for more detailed provisions in this respect. Those provisions are consistent with Regulation (EC) No 765/2008.
- (12) A completely voluntary scheme would lead to only some products being labelled, or supplied with standard product information, with the risk that this might result in confusion or even misinformation for some end-users. The present scheme should therefore ensure that for all the products concerned, the consumption of energy and other essential resources is indicated by labelling and standard product fiches.
- (13) Energy-related products have a direct or indirect impact on the consumption of a wide variety of forms of energy during use, electricity and gas being the most important. This Directive should therefore cover energy-related products having a direct or indirect impact on the consumption of any form of energy during use.
- (14) Energy-related products which have a significant direct or indirect impact on consumption of energy or, where relevant, of essential resources during use and which afford adequate scope for increased efficiency should be covered by a delegated act, when provision of information through labelling may stimulate end-users to purchase more efficient products.
- (15) In order to meet the Union climate change and energy security objectives, and given that the total energy consumed by products is expected to continue to rise in the longer term, the delegated acts under this Directive could, where relevant, also highlight on the label the high total energy consumption of the product.
- (16) A number of Member States have public procurement policies in place which require contracting authorities to procure energy efficient products. A number of Member States also have put in place incentives for energy efficient products. The criteria for products to be eligible for public procurement or incentives can substantially differ from one Member State to another. To refer to performance classes as levels for particular products, as set out in delegated acts under this Directive, may reduce fragmentation of public procurement and incentives and facilitate the uptake of efficient products.

⁽¹⁾ OJ L 218, 13.8.2008, p. 30.

- (17) Incentives which Member States may provide for the promotion of efficient products might constitute State aid. This Directive does not prejudice the outcome of any future State aid procedure that may be undertaken in accordance with Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU) in respect of such incentives and should not cover taxation and fiscal matters. Member States are free to decide on the nature of such incentives.
- (18) The promotion of energy efficient products through labelling, public procurement and incentives should not be to the detriment of the overall environmental performance and the functioning of such products.
- (19) The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU in respect of labelling and standard product information of the consumption of energy and other essential resources by energy-related products during use. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (20) The Commission should regularly submit to the European Parliament and the Council a synthesis, covering the EU and each Member State separately, of the reports on enforcement activities and the level of compliance submitted by Member States under this Directive.
- (21) The Commission should be responsible for adapting the label classifications with the aim of ensuring predictability for the industry and comprehension for consumers.
- (22) To a varying extent according to the product concerned, technological development and the potential for additional significant energy savings could make further product differentiation necessary and justify a review of the classification. Such review should include in particular the possibility of rescaling. This review should be carried out as expeditiously as possible in the case of products which, due to their very innovative characteristics, can make a significant contribution to energy efficiency.
- (23) When the Commission reviews progress and reports on the implementation of the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan in 2012, it will in particular analyse whether further action to improve the energy and environmental performance of products is needed, including, inter alia the possibility to provide consumers with information on the carbon footprint of products or the products' environmental impact during their life cycle.
- (24) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with Directive 92/75/EEC. The obligation to transpose the provisions which are unchanged arises under the Directive 92/75/EEC.
- (25) When Member States implement the provisions of this Directive, they should endeavour to refrain from adopting measures that could impose unnecessarily bureaucratic and unwieldy obligations on the market participants concerned, in particular small and medium-sized enterprises.
- (26) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of Directive 92/75/EEC.
- (27) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽¹⁾, Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

1. This Directive establishes a framework for the harmonisation of national measures on end-user information, particularly by means of labelling and standard product information, on the consumption of energy and where relevant of other essential resources during use, and supplementary information concerning energy-related products, thereby allowing end-users to choose more efficient products.

2. This Directive shall apply to energy-related products which have a significant direct or indirect impact on the consumption of energy and, where relevant, on other essential resources during use.

3. This Directive shall not apply to:

- (a) second-hand products;
- (b) any means of transport for persons or goods;
- (c) the rating plate or its equivalent affixed for safety purposes to products.

⁽¹⁾ OJ C 321, 31.12.2003, p. 1.

*Article 2***Definitions**

For the purpose of this Directive:

- (a) 'energy-related product' or 'product' means any good having an impact on energy consumption during use, which is placed on the market and/or put into service in the Union, including parts intended to be incorporated into energy-related products covered by this Directive which are placed on the market and/or put into service as individual parts for end-users and of which the environmental performance can be assessed independently;
- (b) 'fiche' means a standard table of information relating to a product;
- (c) 'other essential resources' means water, chemicals or any other substance consumed by a product in normal use;
- (d) 'supplementary information' means other information concerning the performance and features of a product which relate to, or are helpful in evaluating, its use of energy or other essential resources based on measurable data;
- (e) 'direct impact' means the impact of products that actually consume energy during use;
- (f) 'indirect impact' means the impact of products that do not consume energy, but contribute to energy conservation during use;
- (g) 'dealer' means a retailer or other person who sells, hires, offers for hire-purchase or displays products to end-users;
- (h) 'supplier' means the manufacturer or its authorised representative in the Union or the importer who places or puts into service the product on the Union market. In their absence, any natural or legal person who places on the market or puts into service products covered by this Directive shall be considered a supplier;
- (i) 'placing on the market' means making a product available for the first time on the Union market with a view to its distribution or use within the Union, whether for reward or free of charge and irrespective of the selling technique;
- (j) 'putting into service' means the first use of a product for its intended purpose in the Union;

- (k) 'unauthorised use of the label' means the use of the label, other than by Member State authorities or EU institutions, in a manner not provided for in this Directive or a delegated act.

*Article 3***Responsibilities of Member States**

1. Member States shall ensure that:
 - (a) all suppliers and dealers established in their territory fulfil the obligations laid down in Articles 5 and 6;
 - (b) with respect to products covered by this Directive, the display of other labels, marks, symbols or inscriptions which do not comply with the requirements of this Directive and of the relevant delegated acts is prohibited, if such display is likely to mislead or confuse end-users with respect to the consumption of energy or, where relevant, other essential resources during use;
 - (c) the introduction of the system of labels and fiches concerning energy consumption or conservation is accompanied by educational and promotional information campaigns aimed at promoting energy efficiency and more responsible use of energy by end-users;
 - (d) appropriate measures are taken in order to encourage the relevant national or regional authorities responsible for implementing this Directive to cooperate and provide each other and the Commission with information in order to assist the application of this Directive. The administrative cooperation and exchange of information shall take the utmost advantage of electronic means of communication, shall be cost-effective and may be supported by relevant EU programmes. Such cooperation shall guarantee the security and confidentiality of processing and the protection of sensitive information provided during that procedure, where necessary. The Commission shall take appropriate measures in order to encourage and contribute to the cooperation between Member States referred to in this point.
2. Where a Member State ascertains that a product does not comply with all the relevant requirements set out in this Directive and its delegated acts for the label and the fiche, the supplier shall be obliged to make the product compliant with those requirements under effective and proportionate conditions imposed by the Member State.

Where there is sufficient evidence that a product may be non-compliant, the Member State concerned shall take the necessary preventive measures and measures aimed at ensuring compliance within a precise time-frame, taking into account the damage caused.

Where non-compliance continues, the Member State concerned shall take a decision restricting or prohibiting the placing on the market and/or putting into service of the product in question or ensuring that it is withdrawn from the market. In cases of withdrawal of the product from the market or prohibition on placing the product on the market, the Commission and the other Member States shall be immediately informed.

3. Every four years, the Member States shall submit a report to the Commission including details about their enforcement activities and the level of compliance in their territory.

The Commission may specify the details of the common content of these reports, through the setting of guidelines.

4. The Commission shall regularly provide a synthesis of those reports to the European Parliament and the Council for information.

Article 4

Information requirements

Member States shall ensure that:

- (a) information relating to the consumption of electric energy, other forms of energy and where relevant other essential resources during use, and supplementary information is, in accordance with delegated acts under this Directive, brought to the attention of end-users by means of a fiche and a label related to products offered for sale, hire, hire-purchase or displayed to end-users directly or indirectly by any means of distance selling, including the Internet;
- (b) the information referred to in point (a) is provided in respect of built-in or installed products only where required by the applicable delegated act;
- (c) any advertisement for a specific model of energy-related products covered by a delegated act under this Directive includes, where energy-related or price information is disclosed, a reference to the energy efficiency class of the product;
- (d) any technical promotional material concerning energy-related products which describes the specific technical parameters of a product, namely, technical manuals and manufacturers' brochures, whether printed or online, is provided to end-users with the necessary information regarding energy consumption or shall include a reference to the energy efficiency class of the product.

Article 5

Responsibilities of suppliers

Member States shall ensure that:

- (a) suppliers placing on the market or putting into service products covered by a delegated act supply a label and a fiche in accordance with this Directive and the delegated act;
- (b) suppliers produce technical documentation which is sufficient to enable the accuracy of the information contained in the label and the fiche to be assessed. That technical documentation shall include:
 - (i) a general description of the product;
 - (ii) where relevant, the results of design calculations carried out;
 - (iii) test reports, where available, including those carried out by relevant notified organisations as defined under other Union legislation;
 - (iv) where values are used for similar models, the references allowing identification of those models.

To this end suppliers may use documentation already established in accordance with requirements laid down in relevant Union legislation;

- (c) suppliers make the technical documentation available for inspection purposes for a period ending five years after the last product concerned was manufactured.

Suppliers make available an electronic version of the technical documentation on request to the market surveillance authorities of the Member States and to the Commission within 10 working days on receipt of a request by the competent authority of a Member State or the Commission;
- (d) in respect of labelling and product information, suppliers provide the necessary labels free of charge to dealers.

Without prejudice to the suppliers' choice of system for delivery of labels, suppliers promptly deliver labels on request from dealers;

- (e) in addition to the labels, suppliers provide a product fiche;
- (f) suppliers include a product fiche in all product brochures. Where product brochures are not provided by the supplier, the supplier provides fiches with other literature provided with the product;
- (g) suppliers are responsible for the accuracy of the labels and fiches that they supply;
- (h) suppliers are considered to have given consent to the publication of the information provided on the label or in the fiche.

Article 6

Responsibilities of dealers

Member States shall ensure that:

- (a) dealers display labels properly, in a visible and legible manner, and make the fiche available in the product brochure or other literature that accompanies products when sold to end-users;
- (b) whenever a product covered by a delegated act is displayed, dealers attach an appropriate label, in the clearly visible position specified in the applicable delegated act, and in the relevant language version.

Article 7

Distance selling and other forms of selling

Where products are offered for sale, hire or hire-purchase by mail order, by catalogue, through the Internet, telemarketing or by any other means which imply that the potential end-user cannot be expected to see the product displayed, delegated acts shall make provision to ensure that potential end-users are provided with the information specified on the label for the product and in the fiche before buying the product. Delegated acts shall, where appropriate, specify the way in which the label or the fiche or the information specified on the label or in the fiche shall be displayed or provided to the potential end-user.

Article 8

Free movement

1. Member States shall not prohibit, restrict or impede the placing on the market or putting into service, within their territories, of products which are covered by and comply with this Directive and the applicable delegated act.
2. Unless they have evidence to the contrary, Member States shall consider labels and fiches as complying with the

provisions of this Directive and the delegated acts. Member States shall require suppliers to provide evidence within the meaning of Article 5 concerning the accuracy of the information supplied on their labels or fiches when they have reason to suspect that such information is incorrect.

Article 9

Public procurement and incentives

1. Where a product is covered by a delegated act, contracting authorities which conclude public works, supply or service contracts as referred to in Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts⁽¹⁾, which are not excluded by virtue of Articles 12 to 18 thereof, shall endeavour to procure only such products which comply with the criteria of having the highest performance levels and belonging to the highest energy efficiency class. Member States may also require the contracting authorities to procure only products fulfilling those criteria. Member States may make the application of those criteria subject to cost-effectiveness, economical feasibility and technical suitability and sufficient competition.

2. Paragraph 1 shall apply to contracts having a value equal to or greater than the thresholds laid down in Article 7 of Directive 2004/18/EC.

3. Where Member States provide any incentives for a product covered by a delegated act they shall aim at the highest performance levels including the highest class of energy efficiency laid down in the applicable delegated act. Taxation and fiscal measures do not constitute incentives for the purpose of this Directive.

4. Where Member States provide incentives for products, both for end-users using highly efficient products and for industries which promote and produce such products, they shall express the performance levels in terms of classes as defined in the applicable delegated act, except where they impose higher performance levels than the threshold for the highest energy efficiency class in the delegated act. Member States may impose higher performance levels than the threshold for the highest energy efficiency class in the delegated act.

Article 10

Delegated acts

1. The Commission shall lay down details relating to the label and the fiche by means of delegated acts in accordance with Articles 11 to 13, relating to each type of product in accordance with this Article.

⁽¹⁾ OJ L 134, 30.4.2004, p. 114.

Where a product meets the criteria listed in paragraph 2, it shall be covered by a delegated act in accordance with paragraph 4.

Provisions in delegated acts regarding information provided on the label and in the fiche on the consumption of energy and other essential resources during use shall enable end-users to make better informed purchasing decisions and shall enable market surveillance authorities to verify whether products comply with the information provided.

Where a delegated act lays down provisions with respect to both energy efficiency and consumption of essential resources of a product, the design and content of the label shall emphasise the energy efficiency of the product.

2. The criteria referred to in paragraph 1 are the following:

- (a) according to most recently available figures and considering the quantities placed on the Union market, the products shall have a significant potential for saving energy and, where relevant, other essential resources;
- (b) products with equivalent functionality available on the market shall have a wide disparity in the relevant performance levels;
- (c) the Commission shall take into account relevant Union legislation and self-regulation, such as voluntary agreements, which are expected to achieve the policy objectives more quickly or at lesser expense than mandatory requirements.

3. In preparing a draft delegated act, the Commission shall:

- (a) take into account those environmental parameters set out in Annex I, Part 1, to Directive 2009/125/EC which are identified as significant in the relevant implementing measure adopted under Directive 2009/125/EC and which are relevant for the end-user during use;
- (b) assess the impact of the act on the environment, end-users and manufacturers, including small and medium-sized enterprises (SMEs), in terms of competitiveness including on markets outside the Union, innovation, market access and costs and benefits;
- (c) carry out appropriate consultation with stakeholders;
- (d) set implementing date(s), any staged or transitional measures or periods, taking into account in particular possible impacts on SMEs or on specific product groups manufactured primarily by SMEs.

4. The delegated acts shall specify in particular:

- (a) the exact definition of the type of products to be included;
- (b) the measurement standards and methods to be used in obtaining the information referred to in Article 1(1);
- (c) the details of the technical documentation required pursuant to Article 5;
- (d) the design and content of the label referred to in Article 4, which as far as possible shall have uniform design characteristics across product groups and shall in all cases be clearly visible and legible. The format of the label shall retain as a basis the classification using letters from A to G; the steps of the classification shall correspond to significant energy and cost savings from the end-user perspective.

Three additional classes may be added to the classification if required by technological progress. Those additional classes will be A+, A++, and A+++ for the most efficient class. In principle the total number of classes will be limited to seven, unless more classes are still populated.

The colour scale shall consist of no more than seven different colours from dark green to red. The colour code of only the highest class shall always be dark green. If there are more than seven classes, only the red colour can be duplicated.

The classification shall be reviewed in particular when a significant proportion of products on the internal market achieves the two highest energy efficiency classes and when additional savings may be achieved by further differentiating products.

Detailed criteria for a possible reclassification of products are, where appropriate, to be determined on a case-by-case basis in the relevant delegated act;

- (e) the location where the label shall be fixed to the product displayed and the manner in which the label and/or information are to be provided in the case of offers for sale as covered by Article 7. Where appropriate, the delegated acts may provide for the label to be attached to the product or printed on the packaging, or for the details of the labelling requirements for printing in catalogues, for distance selling and Internet sales;
- (f) the content and, where appropriate, the format and other details concerning the fiche or further information specified in Article 4 and Article 5(c). The information on the label shall also be included on the fiche;

- (g) the specific content of the label for advertising, including, as appropriate, the energy class and other relevant performance level(s) of the given product in a legible and visible form;
- (h) the duration of label classification(s), where appropriate, in accordance with point (d);
- (i) the level of accuracy in the declarations on the label and fiches;
- (j) the date for the evaluation and possible revision of the delegated act, taking into account the speed of technological progress.

Article 11

Exercise of the delegation

1. The powers to adopt the delegated acts referred to in Article 10 shall be conferred on the Commission for a period of five years beginning on 19 June 2010. The Commission shall make a report in respect of the delegated powers not later than six months before the end of the five-year period. The delegation of powers shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 12.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 12 and 13.

Article 12

Revocation of the delegation

1. The delegation of powers referred to in Article 10 may be revoked by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 13

Objections to delegated acts

1. The European Parliament or the Council may object to the delegated act within a period of two months from the date of notification.

At the initiative of the European Parliament or the Council that period shall be extended by two months.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period, if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 14

Evaluation

Not later than 31 December 2014, the Commission shall review the effectiveness of this Directive and of its delegated acts and submit a report to the European Parliament and the Council.

On that occasion, the Commission shall also assess:

- (a) the contribution of Article 4(c) to the aim of this Directive;
- (b) the effectiveness of Article 9(1);
- (c) in the light of technical evolution and the understanding by consumers of the label layout, the need for amending Article 10(4)(d).

Article 15

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and its delegated acts, including unauthorised use of the label, and shall take the necessary measures to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. The Member States shall notify these provisions to the Commission by 20 June 2011 and shall notify the Commission without delay of any subsequent amendment affecting those provisions.

*Article 16***Transposition**

1. Member States shall bring into force, by 20 June 2011 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 20 July 2011.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement to the effect that references in existing laws, regulations and administrative provisions to Directive 92/75/EEC shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 17***Repeal**

Directive 92/75/EEC, as amended by the Regulation indicated in Annex I, Part A, is repealed with effect from 21 July 2011, without prejudice to the obligations of the Member States

relating to the time-limits for transposition into national law and application of that Directive set out in Annex I, Part B.

References to Directive 92/75/EEC shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

*Article 18***Entry into force**

This Directive shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Points (d), (g) and (h) of Article 5 shall apply from 31 July 2011.

*Article 19***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 19 May 2010.

For the European Parliament

The President

J. BUZEK

For the Council

The President

D. LÓPEZ GARRIDO

ANNEX I

PART A

**Repealed Directive with its successive amendment
(referred to in Article 17)**

Council Directive 92/75/EEC
(OJ L 297, 13.10.1992, p. 16).

Regulation (EC) No 1882/2003
(OJ L 284, 31.10.2003, p. 1).

Only point (32) of Annex III

PART B

**List of time-limits for transposition into national law
(referred to in Article 16)**

Directive	Deadline for transposition
92/75/EEC	1 January 1994

ANNEX II

Correlation Table

Directive 92/75/EEC	This Directive
Article 1(1), introductory wording, first sentence	Article 1(1)
Article 1(1), introductory wording, second sentence	Article 1(2)
Article 1(1), first to seventh indent	—
Article 1(2)	—
—	Article 1(3) points (a) and (b)
Article 1(3)	Article 1(3) point (c)
—	Article 2 points (a) and (b)
Article 1(4), first and second indents	Article 2 points (g) and (h)
Article 1(4), third indent	—
Article 1(4), fourth indent	Article 2 point (c)
Article 1(4), fifth indent	Article 2 point (d)
—	Article 2 points (e), (f), (i), (j) and (k)
Article 1(5)	—
Article 2(1)	Article 4 point (a)
—	Article 4 points (b), (c) and (d)
Article 2(2)	—
Article 2(3)	Article 5 point (b)
Article 2(4)	Article 5 points (b) and (c)
Article 3(1)	Article 5 point (a)
Article 3(2)	Article 5 points (e) and (f)
Article 3(3)	Article 5 point (g)
Article 3(4)	Article 5 point (h)
—	Article 6 point (a)
Article (4) point (a)	Article 6 point (b)
Article (4) point (b)	Article 5 point (d)
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Article 7 point (a)	Article 3(1) point (a)
Article 7 point (b)	Article 3(1) point (b)
Article 7 point (c)	Article 3(1) point (c)
—	Article 3(1) point (d)
—	Article 3(2), (3) and (4)
Article 8(1)	Article 8(1)
Article 8(2)	Article 8(2)
Article 9	—

Directive 92/75/EEC	This Directive
—	Article 9
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—	Article 10(1), (2) and (3)
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Article 12 point (a)	Article 10(4) point (a)
Article 12 point (b)	Article 10(4) point (b)
Article 12 point (c)	Article 10(4) point (c)
Article 12 point (d)	Article 10(4) point (d)
Article 12 point (e)	Article 10(4) point (e)
Article 12 point (f)	Article 10(4) point (f)
Article 12 point (g)	—
—	Article 10(4) points (g), (h), (i) and (j)
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DIRECTIVE 2010/31/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 May 2010
on the energy performance of buildings
(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings ⁽⁴⁾ has been amended ⁽⁵⁾. Since further substantive amendments are to be made, it should be recast in the interests of clarity.
- (2) An efficient, prudent, rational and sustainable utilisation of energy applies, inter alia, to oil products, natural gas and solid fuels, which are essential sources of energy, but also the leading sources of carbon dioxide emissions.
- (3) Buildings account for 40 % of total energy consumption in the Union. The sector is expanding, which is bound to increase its energy consumption. Therefore, reduction of energy consumption and the use of energy from renewable sources in the buildings sector constitute important measures needed to reduce the Union's energy dependency and greenhouse gas emissions.

Together with an increased use of energy from renewable sources, measures taken to reduce energy consumption in the Union would allow the Union to comply with the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), and to honour both its long term commitment to maintain the global temperature rise below 2 °C, and its commitment to reduce, by 2020, overall greenhouse gas emissions by at least 20 % below 1990 levels, and by 30 % in the event of an international agreement being reached. Reduced energy consumption and an increased use of energy from renewable sources also have an important part to play in promoting security of energy supply, technological developments and in creating opportunities for employment and regional development, in particular in rural areas.

- (4) Management of energy demand is an important tool enabling the Union to influence the global energy market and hence the security of energy supply in the medium and long term.

- (5) The European Council of March 2007 emphasised the need to increase energy efficiency in the Union so as to achieve the objective of reducing by 20 % the Union's energy consumption by 2020 and called for a thorough and rapid implementation of the priorities established in the Commission Communication entitled 'Action plan for energy efficiency: realising the potential'. That action plan identified the significant potential for cost-effective energy savings in the buildings sector. The European Parliament, in its resolution of 31 January 2008, called for the strengthening of the provisions of Directive 2002/91/EC, and has called at various times, on the latest occasion in its resolution of 3 February 2009 on the Second Strategic Energy Review, for the 20 % energy efficiency target in 2020 to be made binding. Moreover, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 ⁽⁶⁾, sets national binding targets for CO₂ reduction for which energy efficiency in the building sector will be crucial, and Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources ⁽⁷⁾ provides for the promotion of energy efficiency in the context of a binding target for energy from renewable sources accounting for 20 % of total Union energy consumption by 2020.

⁽¹⁾ OJ C 277, 17.11.2009, p. 75.

⁽²⁾ OJ C 200, 25.8.2009, p. 41.

⁽³⁾ Position of the European Parliament of 23 April 2009 (not yet published in the Official Journal), position of the Council at first reading of 14 April 2010 (not yet published in the Official Journal), position of the European Parliament of 18 May 2010 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 1, 4.1.2003, p. 65.

⁽⁵⁾ See Annex IV, Part A.

⁽⁶⁾ OJ L 140, 5.6.2009, p. 136.

⁽⁷⁾ OJ L 140, 5.6.2009, p. 16.

- (6) The European Council of March 2007 reaffirmed the Union's commitment to the Union-wide development of energy from renewable sources by endorsing a mandatory target of a 20 % share of energy from renewable sources by 2020. Directive 2009/28/EC establishes a common framework for the promotion of energy from renewable sources.
- (7) It is necessary to lay down more concrete actions with a view to achieving the great unrealised potential for energy savings in buildings and reducing the large differences between Member States' results in this sector.
- (8) Measures to improve further the energy performance of buildings should take into account climatic and local conditions as well as indoor climate environment and cost-effectiveness. These measures should not affect other requirements concerning buildings such as accessibility, safety and the intended use of the building.
- (9) The energy performance of buildings should be calculated on the basis of a methodology, which may be differentiated at national and regional level. That includes, in addition to thermal characteristics, other factors that play an increasingly important role such as heating and air-conditioning installations, application of energy from renewable sources, passive heating and cooling elements, shading, indoor air-quality, adequate natural light and design of the building. The methodology for calculating energy performance should be based not only on the season in which heating is required, but should cover the annual energy performance of a building. That methodology should take into account existing European standards.
- (10) It is the sole responsibility of Member States to set minimum requirements for the energy performance of buildings and building elements. Those requirements should be set with a view to achieving the cost-optimal balance between the investments involved and the energy costs saved throughout the lifecycle of the building, without prejudice to the right of Member States to set minimum requirements which are more energy efficient than cost-optimal energy efficiency levels. Provision should be made for the possibility for Member States to review regularly their minimum energy performance requirements for buildings in the light of technical progress.
- (11) The objective of cost-effective or cost-optimal energy efficiency levels may, in certain circumstances, for example in the light of climatic differences, justify the setting by Member States of cost-effective or cost-optimal requirements for building elements that would in practice limit the installation of building products that comply with standards set by Union legislation, provided that such requirements do not constitute an unjustifiable market barrier.
- (12) When setting energy performance requirements for technical building systems, Member States should use, where available and appropriate, harmonised instruments, in particular testing and calculation methods and energy efficiency classes developed under measures implementing Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products⁽¹⁾ and Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products⁽²⁾, with a view to ensuring coherence with related initiatives and minimise, to the extent possible, potential fragmentation of the market.
- (13) This Directive is without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU). The term 'incentive' used in this Directive should not therefore be interpreted as constituting State aid.
- (14) The Commission should lay down a comparative methodology framework for calculating cost-optimal levels of minimum energy performance requirements. Member States should use this framework to compare the results with the minimum energy performance requirements which they have adopted. Should significant discrepancies, i.e. exceeding 15 %, exist between the calculated cost-optimal levels of minimum energy performance requirements and the minimum energy performance requirements in force, Member States should justify the difference or plan appropriate steps to reduce the discrepancy. The estimated economic lifecycle of a building or building element should be determined by Member States, taking into account current practices and experience in defining typical economic lifecycles. The results of this comparison and the data used to reach these results should be regularly reported to the Commission. These reports should enable the Commission to assess and report on the progress of Member States in reaching cost-optimal levels of minimum energy performance requirements.

(1) OJ L 285, 31.10.2009, p. 10.

(2) See page 1 of this Official Journal.

- (15) Buildings have an impact on long-term energy consumption. Given the long renovation cycle for existing buildings, new, and existing buildings that are subject to major renovation, should therefore meet minimum energy performance requirements adapted to the local climate. As the application of alternative energy supply systems is not generally explored to its full potential, alternative energy supply systems should be considered for new buildings, regardless of their size, pursuant to the principle of first ensuring that energy needs for heating and cooling are reduced to cost-optimal levels.
- (16) Major renovations of existing buildings, regardless of their size, provide an opportunity to take cost-effective measures to enhance energy performance. For reasons of cost-effectiveness, it should be possible to limit the minimum energy performance requirements to the renovated parts that are most relevant for the energy performance of the building. Member States should be able to choose to define a 'major renovation' either in terms of a percentage of the surface of the building envelope or in terms of the value of the building. If a Member State decides to define a major renovation in terms of the value of the building, values such as the actuarial value, or the current value based on the cost of reconstruction, excluding the value of the land upon which the building is situated, could be used.
- (17) Measures are needed to increase the number of buildings which not only fulfil current minimum energy performance requirements, but are also more energy efficient, thereby reducing both energy consumption and carbon dioxide emissions. For this purpose Member States should draw up national plans for increasing the number of nearly zero-energy buildings and regularly report such plans to the Commission.
- (18) Union financial instruments and other measures are being put into place or adapted with the aim of stimulating energy efficiency-related measures. Such financial instruments at Union level include, inter alia, Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund ⁽¹⁾, amended to allow increased investments in energy efficiency in housing; the public-private partnership on a 'European energy-efficient buildings' initiative to promote green technologies and the development of energy-efficient systems and materials in new and renovated buildings; the EC-European Investment Bank (EIB) initiative 'EU sustainable energy financing initiative' which aims to enable, inter alia, investments for energy efficiency and the EIB-led 'Marguerite Fund': the 2020 European Fund for Energy, Climate Change and Infrastructure; Council Directive 2009/47/EC of 5 May 2009 amending Directive 2006/112/EC as regards reduced rates of value added tax ⁽²⁾, structural and cohesion funds instrument Jeremie (Joint European Resources for micro to medium enterprises); the Energy Efficiency Finance Facility; the Competitiveness and Innovation Framework Programme including the Intelligent Energy Europe II Programme focused specifically on removing market barriers related to energy efficiency and energy from renewable sources through for example the technical assistance facility ELENA (European Local Energy Assistance); the Covenant of Mayors; the Entrepreneurship and Innovation programme; the ICT Policy Support Programme 2010, and the Seventh Research Framework Programme. The European Bank for Reconstruction and Development also provides funding with the aim of stimulating energy-efficiency-related measures.
- (19) Union financial instruments should be used to give practical effect to the objectives of this Directive, without however substituting national measures. In particular, they should be used for providing appropriate and innovative means of financing to catalyse investment in energy efficiency measures. They could play an important role in the development of national, regional and local energy efficiency funds, instruments, or mechanisms, which deliver such financing possibilities to private property owners, to small and medium-sized enterprises and to energy efficiency service companies.
- (20) In order to provide the Commission with adequate information, Member States should draw up lists of existing and proposed measures, including those of a financial nature, other than those required by this Directive, which promote the objectives of this Directive. The existing and proposed measures listed by Member States may include, in particular, measures that aim to reduce existing legal and market barriers and encourage investments and/or other activities to increase the energy efficiency of new and existing buildings, thus potentially contributing to reducing energy poverty. Such measures could include, but should not be limited to, free or subsidised technical assistance and advice, direct subsidies, subsidised loan schemes or low interest loans, grant schemes and loan guarantee schemes. The public authorities and other institutions which provide those measures of a financial nature could link the application of such measures to the indicated energy performance and the recommendations from energy performance certificates.

⁽¹⁾ OJ L 210, 31.7.2006, p. 1.

⁽²⁾ OJ L 116, 9.5.2009, p. 18.

- (21) In order to limit the reporting burden on Member States it should be possible to integrate the reports required by this Directive into the Energy Efficiency Action Plans referred to in Article 14(2) of Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services⁽¹⁾. The public sector in each Member State should lead the way in the field of energy performance of buildings, and therefore the national plans should set more ambitious targets for the buildings occupied by public authorities.
- (22) The prospective buyer and tenant of a building or building unit should, in the energy performance certificate, be given correct information about the energy performance of the building and practical advice on improving such performance. Information campaigns may serve to further encourage owners and tenants to improve the energy performance of their building or building unit. Owners and tenants of commercial buildings should also be encouraged to exchange information regarding actual energy consumption, in order to ensure that all the data are available to make informed decisions about necessary improvements. The energy performance certificate should also provide information about the actual impact of heating and cooling on the energy needs of the building, on its primary energy consumption and on its carbon dioxide emissions.
- (23) Public authorities should lead by example and should endeavour to implement the recommendations included in the energy performance certificate. Member States should include within their national plans measures to support public authorities to become early adopters of energy efficiency improvements and to implement the recommendations included in the energy performance certificate as soon as feasible.
- (24) Buildings occupied by public authorities and buildings frequently visited by the public should set an example by showing that environmental and energy considerations are being taken into account and therefore those buildings should be subject to energy certification on a regular basis. The dissemination to the public of information on energy performance should be enhanced by clearly displaying these energy performance certificates, in particular in buildings of a certain size which are occupied by public authorities or which are frequently visited by the public, such as shops and shopping centres, supermarkets, restaurants, theatres, banks and hotels.
- (25) Recent years have seen a rise in the number of air-conditioning systems in European countries. This creates considerable problems at peak load times, increasing the cost of electricity and disrupting the energy balance. Priority should be given to strategies which enhance the thermal performance of buildings during the summer period. To that end, there should be focus on measures which avoid overheating, such as shading and sufficient thermal capacity in the building construction, and further development and application of passive cooling techniques, primarily those that improve indoor climatic conditions and the micro-climate around buildings.
- (26) Regular maintenance and inspection of heating and air-conditioning systems by qualified personnel contributes to maintaining their correct adjustment in accordance with the product specification and in that way ensures optimal performance from an environmental, safety and energy point of view. An independent assessment of the entire heating and air-conditioning system should occur at regular intervals during its lifecycle in particular before its replacement or upgrading. In order to minimise the administrative burden on building owners and tenants, Member States should endeavour to combine inspections and certifications as far as possible.
- (27) A common approach to the energy performance certification of buildings and to the inspection of heating and air-conditioning systems, carried out by qualified and/or accredited experts, whose independence is to be guaranteed on the basis of objective criteria, will contribute to a level playing field as regards efforts made in Member States to energy saving in the buildings sector and will introduce transparency for prospective owners or users with regard to energy performance in the Union property market. In order to ensure the quality of energy performance certificates and of the inspection of heating and air-conditioning systems throughout the Union, an independent control mechanism should be established in each Member State.
- (28) Since local and regional authorities are critical for the successful implementation of this Directive, they should be consulted and involved, as and when appropriate in accordance with applicable national legislation, on planning issues, the development of programmes to provide information, training and awareness-raising, and on the implementation of this Directive at national or regional level. Such consultations may also serve to promote the provision of adequate guidance to local planners and building inspectors to carry out the necessary tasks. Furthermore, Member States should enable and encourage architects and planners to properly consider 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.

⁽¹⁾ OJ L 114, 27.4.2006, p. 64.

- (29) Installers and builders are critical for the successful implementation of this Directive. Therefore, an adequate number of installers and builders should, through training and other measures, have the appropriate level of competence for the installation and integration of the energy efficient and renewable energy technology required.
- (30) Member States should take account of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications⁽¹⁾ with regard to the mutual recognition of professional experts which are addressed by this Directive, and the Commission should continue its activities under the Intelligent Energy Europe Programme on guidelines and recommendations for standards for the training of such professional experts.
- (31) In order to enhance the transparency of energy performance in the Union's non-residential property market, uniform conditions for a voluntary common certification scheme for the energy performance of non-residential buildings should be established. In accordance with Article 291 TFEU, rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾ continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.
- (32) The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU in respect of the adaptation to technical progress of certain parts of the general framework set out in Annex I, and in respect of the establishment of a methodology framework for calculating cost-optimal levels of minimum energy performance requirements. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (33) Since the objective of this Directive, namely of enhancing the energy performance of buildings, cannot be sufficiently achieved by the Member States, due to the complexity of the buildings sector and the inability of the national housing markets to adequately address the challenges of energy efficiency, and can by the reason of the scale and the effects of the action be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principles of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (34) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with Directive 2002/91/EC. The obligation to transpose the provisions which are unchanged arises under that Directive.
- (35) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directive 2002/91/EC.
- (36) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽³⁾, Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables, illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

1. This Directive promotes the improvement of the energy performance of buildings within the Union, taking into account outdoor climatic and local conditions, as well as indoor climate requirements and cost-effectiveness.
2. This Directive lays down requirements as regards:
 - (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 to the energy performance of new buildings and new building units;
 - (c) the application of minimum requirements to the energy performance of:
 - (i) existing buildings, building units and building elements that are subject to major renovation;
 - (ii) building elements that 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;

⁽¹⁾ OJ L 255, 30.9.2005, p. 22.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ C 321, 31.12.2003, p. 1.

- (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.

3. The requirements laid down in this Directive are minimum requirements and shall not prevent any Member State from maintaining or introducing more stringent measures. Such measures shall be compatible with the Treaty on the Functioning of the European Union. They shall be notified to the Commission.

Article 2

Definitions

For the purpose of this Directive, the following definitions shall apply:

1. 'building' means a roofed construction having walls, for which energy is used to condition the indoor climate;
 2. 'nearly zero-energy building' means a building that has a very high energy performance, as determined in accordance with Annex I. The nearly zero or very low amount of energy required should be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby;
 3. '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;
 4. 'energy performance of a building' 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;
 5. 'primary energy' means energy from renewable and non-renewable sources which has not undergone any conversion or transformation process;
 6. '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;
 7. 'building envelope' means the integrated elements of a building which separate its interior from the outdoor environment;
 8. 'building unit' means a section, floor or apartment within a building which is designed or altered to be used separately;
 9. 'building element' means a technical building system or an element of the building envelope;
 10. 'major renovation' means the renovation of a building where:
 - (a) the total cost of the renovation relating to the building envelope or the technical building systems is higher than 25 % of the value of the building, excluding the value of the land upon which the building is situated; or
 - (b) more than 25 % of the surface of the building envelope undergoes renovation;
- Member States may choose to apply option (a) or (b).
11. '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;
 12. 'energy performance certificate' means a certificate recognised by a Member State or by a legal person designated by it, which indicates the energy performance of a building or building unit, calculated according to a methodology adopted in accordance with Article 3;
 13. 'cogeneration' means simultaneous generation in one process of thermal energy and electrical and/or mechanical energy;
 14. '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 energy costs and savings, the category of building concerned, earnings from energy produced), where applicable, and disposal costs, where applicable; and

- (b) the estimated economic lifecycle is determined by each Member State. It refers 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 lie within the range of performance levels where the cost benefit analysis calculated over the estimated economic lifecycle is positive;

15. 'air-conditioning system' means a combination of the components required to provide a form of indoor air treatment, by which temperature is controlled or can be lowered;
16. 'boiler' means the combined boiler body-burner unit, designed to transmit to fluids the heat released from burning;
17. '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;
18. '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. For reversible heat pumps, it may also move heat from the building to the natural surroundings;
19. 'district heating' or 'district cooling' means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from a central source of production through a network to multiple buildings or sites, for the use of space or process heating or cooling.

Article 3

Adoption of a methodology for calculating the energy performance of buildings

Member States shall apply a methodology for calculating the energy performance of buildings in accordance with the common general framework set out in Annex I.

This methodology shall be adopted at national or regional level.

Article 4

Setting of minimum energy performance requirements

1. Member States shall take the necessary measures to ensure that minimum energy performance requirements for buildings or building units are set with a view to achieving cost-optimal levels. The energy performance shall be calculated in accordance with the methodology referred to in Article 3. Cost-optimal levels shall be calculated in accordance with the comparative methodology framework referred to in Article 5 once the framework is in place.

Member States shall take the necessary measures to ensure that minimum energy performance requirements are set for building elements that form part of the building envelope and that 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.

When setting requirements, Member States may differentiate between new and existing buildings and between different categories of buildings.

These requirements shall take account of general indoor climate conditions, in order to avoid possible negative effects such as inadequate ventilation, as well as local conditions and the designated function and the age of the building.

A Member State shall not be required to set minimum energy performance requirements which are not cost-effective over the estimated economic lifecycle.

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.

2. Member States may decide not to set or apply the requirements referred to in paragraph 1 to the following categories of buildings:

- (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 and for religious activities;

- (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) residential buildings which are used or intended to be used for either less than four months of the year or, alternatively, for a limited annual time of use and with an expected energy consumption of less than 25 % of what would be the result of all-year use;
- (e) stand-alone buildings with a total useful floor area of less than 50 m².

Article 5

Calculation of cost-optimal levels of minimum energy performance requirements

1. The Commission shall establish by means of delegated acts in accordance with Articles 23, 24 and 25 by 30 June 2011 a comparative methodology framework for calculating cost-optimal levels of minimum energy performance requirements for buildings and building elements.

The comparative methodology framework shall be established in accordance with Annex III and shall differentiate between new and existing buildings and between different categories of buildings.

2. Member States shall calculate cost-optimal levels of minimum energy performance requirements using the comparative methodology framework established in accordance with paragraph 1 and relevant parameters, such as climatic conditions and the practical accessibility of energy infrastructure, and compare the results of this calculation with the minimum energy performance requirements in force.

Member States shall report to the Commission all input data and assumptions used for those calculations and the results of those calculations. The report may be included in the Energy Efficiency Action Plans referred to in Article 14(2) of Directive 2006/32/EC. Member States shall submit those reports to the Commission at regular intervals, which shall not be longer than five years. The first report shall be submitted by 30 June 2012.

3. If the result of the comparison performed in accordance with paragraph 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 Member State concerned shall justify this difference in writing to the Commission in the report referred to in paragraph 2, accompanied, to the extent that the gap cannot be justified, by a plan outlining appropriate steps to significantly reduce the gap by the next review of the energy performance requirements as referred to in Article 4(1).

4. The Commission shall publish a report on the progress of the Member States in reaching cost-optimal levels of minimum energy performance requirements.

Article 6

New buildings

1. Member States shall take the necessary measures to ensure that new buildings meet the minimum energy performance requirements set in accordance with Article 4.

For new buildings, Member States shall ensure that, before construction starts, the technical, environmental and economic feasibility of high-efficiency alternative systems such as those listed below, if available, is considered and taken into account:

- (a) decentralised energy supply systems based on energy from renewable sources;
- (b) cogeneration;
- (c) district or block heating or cooling, particularly where it is based entirely or partially on energy from renewable sources;
- (d) heat pumps.

2. Member States shall ensure that the analysis of alternative systems referred to in paragraph 1 is documented and available for verification purposes.

3. That 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.

Article 7

Existing buildings

Member States shall take the necessary measures to ensure that when buildings undergo major renovation, the energy performance of the building or the renovated part thereof is upgraded in order to meet minimum energy performance requirements set in accordance with Article 4 in so far as this is technically, functionally and economically feasible.

Those 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.

Member States shall in addition take the necessary measures to ensure that when a building element that forms part of the building envelope and has a significant impact on the energy performance of the building envelope, is retrofitted or replaced, the energy performance of the building element meets minimum energy performance requirements in so far as this is technically, functionally and economically feasible.

Member States shall determine these minimum energy performance requirements in accordance with Article 4.

Member States shall encourage, in relation to buildings undergoing major renovation, the consideration and taking into account of high-efficiency alternative systems, as referred to in Article 6(1), in so far as this is technically, functionally and economically feasible.

Article 8

Technical building systems

1. Member States shall, for the purpose of optimising the energy use of technical building systems, set 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. Member States may also apply these system requirements to new buildings.

System requirements shall be set for new, replacement and upgrading of technical building systems and shall be applied in so far as they are technically, economically and functionally feasible.

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 a combination of such systems.

2. Member States shall encourage the introduction of intelligent metering systems whenever a building is constructed or undergoes major renovation, whilst ensuring that this encouragement is in line with point 2 of Annex I to Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity⁽¹⁾. Member States may furthermore

encourage, where appropriate, the installation of active control systems such as automation, control and monitoring systems that aim to save energy.

Article 9

Nearly zero-energy buildings

1. Member States shall ensure that:

- (a) by 31 December 2020, all new buildings are nearly zero-energy buildings; and
- (b) after 31 December 2018, new buildings occupied and owned by public authorities are nearly zero-energy buildings.

Member States shall draw up national plans for increasing the number of nearly zero-energy buildings. These national plans may include targets differentiated according to the category of building.

2. Member States shall furthermore, following the leading example of the public sector, 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 inform the Commission thereof in their national plans referred to in paragraph 1.

3. The national plans shall include, inter alia, the following elements:

- (a) the Member State's detailed application in practice of the definition of nearly zero-energy buildings, reflecting their national, regional or local 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 or regional 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 paragraph 1;
- (c) information on the policies and financial or other measures adopted in the context of paragraphs 1 and 2 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 Article 13(4) of Directive 2009/28/EC and Articles 6 and 7 of this Directive.

⁽¹⁾ OJ L 211, 14.8.2009, p. 55.

4. The Commission shall evaluate the national plans referred to in paragraph 1, notably the adequacy of the measures envisaged by the Member State in relation to the objectives of this Directive. The Commission, taking due account of the principle of subsidiarity, may request further specific information regarding the requirements set out in paragraphs 1, 2 and 3. In that case, the Member State concerned shall submit the requested information or propose amendments within nine months following the request from the Commission. Following its evaluation, the Commission may issue a recommendation.

5. The Commission shall by 31 December 2012 and every three years thereafter publish a report on the progress of Member States in increasing the number of nearly zero-energy buildings. On the basis of that report the Commission shall develop an action plan and, if necessary, propose measures to increase the number of those buildings and encourage best practices as regards the cost-effective transformation of existing buildings into nearly zero-energy buildings.

6. Member States may decide not to apply the requirements set out in points (a) and (b) of paragraph 1 in specific and justifiable cases where the cost-benefit analysis over the economic lifecycle of the building in question is negative. Member States shall inform the Commission of the principles of the relevant legislative regimes.

Article 10

Financial incentives and market barriers

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, Member States shall take appropriate steps to consider the most relevant such instruments in the light of national circumstances.

2. Member States shall draw up, by 30 June 2011, a list of existing and, if appropriate, proposed measures and instruments including those of a financial nature, other than those required by this Directive, which promote the objectives of this Directive.

Member States shall update this list every three years. Member States shall communicate these lists to the Commission, which they may do by including them in the Energy Efficiency Action Plans referred to in Article 14(2) of Directive 2006/32/EC.

3. The Commission shall examine the effectiveness of the listed existing and proposed measures referred to in paragraph 2 as well as of relevant Union instruments, in supporting the implementation of this Directive. On the basis of that examination, and taking due account of the principle of subsidiarity, the Commission may provide advice or recommendations as regards specific national schemes and coordination with Union and international financial institutions. The Commission

may include its examination and possible advice or recommendations in its report on the National Energy Efficiency Plans referred to in Article 14(5) of Directive 2006/32/EC.

4. The Commission shall, where appropriate, assist upon request Member States in setting up national or regional financial support programmes with the aim of increasing energy efficiency in buildings, especially of existing buildings, by supporting the exchange of best practice between the responsible national or regional authorities or bodies.

5. In order to improve financing in support of the implementation of this Directive and taking due account of the principle of subsidiarity, the Commission shall, preferably by 2011, present an analysis on, in particular:

- (a) the effectiveness, the appropriateness of the level, and the actual amount used, of structural funds and framework programmes that were used for increasing energy efficiency in buildings, especially in housing;
- (b) the effectiveness of the use of funds from the EIB and other public finance institutions;
- (c) the coordination of Union and national funding and other forms of support that can act as a leverage for stimulating investments in energy efficiency and the adequacy of such funds for achieving Union objectives.

On the basis of that analysis, and in accordance with the multi-annual financial framework, the Commission may subsequently submit, if it considers this appropriate, proposals with respect to Union instruments to the European Parliament and the Council.

6. Member States shall take account of the cost-optimal levels of energy performance when providing incentives for the construction or major renovation of buildings.

7. The provisions of this Directive shall not prevent Member States from providing incentives for new buildings, renovations or building elements which go beyond the cost-optimal levels.

Article 11

Energy performance certificates

1. Member States shall lay down the necessary measures to establish a system of certification of the energy performance of buildings. The energy performance certificate shall include the energy performance of a building 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.

The energy performance certificate 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.

2. The energy performance certificate shall include recommendations for the cost-optimal or cost-effective improvement of the energy performance of a building 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 energy performance certificate shall cover:

- (a) measures 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).

3. The recommendations included in the energy performance certificate 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.

4. The energy performance certificate 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 energy performance certificate. 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. In addition, it shall contain information on the steps to be taken to implement the recommendations. Other information on related topics, such as energy audits or incentives of a financial or other nature and financing possibilities may also be provided to the owner or tenant.

5. Subject to national rules, Member States shall encourage public authorities to take into account the leading role which they should play in the field of energy performance of buildings, inter alia, by implementing the recommendations included in the energy performance certificate issued for buildings owned by them within its validity period.

6. 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.

7. Certification for single-family houses may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality if such correspondence can be guaranteed by the expert issuing the energy performance certificate.

8. The validity of the energy performance certificate shall not exceed 10 years.

9. The Commission shall, by 2011, in consultation with the relevant sectors, adopt a voluntary common European Union certification scheme for the energy performance of non-residential buildings. That measure shall be adopted in accordance with the advisory procedure referred to in Article 26(2). Member States are encouraged to recognise or use the scheme, or use part thereof by adapting it to national circumstances.

Article 12

Issue of energy performance certificates

1. Member States shall ensure that an energy performance certificate is issued for:

- (a) buildings or building units which are constructed, sold or rented out to a new tenant; and
- (b) buildings where a total useful floor area over 500 m² is occupied by a public authority and frequently visited by the public. On 9 July 2015, this threshold of 500 m² shall be lowered to 250 m².

The requirement to issue an energy performance certificate does not apply where a certificate, issued in accordance with either Directive 2002/91/EC or this Directive, for the building or building unit concerned is available and valid.

2. Member States shall require that, when buildings or building units are constructed, sold or rented out, the energy performance certificate or a copy thereof is shown to the prospective new tenant or buyer and handed over to the buyer or new tenant.

3. Where a building is sold or rented out in advance of construction, Member States may require the seller to provide an assessment of its future energy performance, as a derogation from paragraphs 1 and 2; in this case, the energy performance certificate shall be issued at the latest once the building has been constructed.

4. Member States shall require that when:

- buildings having an energy performance certificate,
- building units in a building having an energy performance certificate, and
- building units having an energy performance certificate,

are offered for sale or for rent, the energy performance indicator of the energy performance certificate of the building or the building unit, as applicable, is stated in the advertisements in commercial media.

5. The provisions of this Article shall be implemented in accordance with applicable national rules on joint ownership or common property.

6. Member States may exclude the categories of buildings referred to in Article 4(2) from the application of paragraphs 1, 2, 4 and 5 of this Article.

7. The possible effects of energy performance certificates in terms of legal proceedings, if any, shall be decided in accordance with national rules.

Article 13

Display of energy performance certificates

1. Member States shall take measures to ensure that where a total useful floor area over 500 m² of a building for which an energy performance certificate has been issued in accordance with Article 12(1) is occupied by public authorities and frequently visited by the public, the energy performance certificate is displayed in a prominent place clearly visible to the public.

On 9 July 2015, this threshold of 500 m² shall be lowered to 250 m².

2. Member States shall require that where a total useful floor area over 500 m² of a building for which an energy performance certificate has been issued in accordance with Article 12(1) is frequently visited by the public, the energy performance certificate is displayed in a prominent place clearly visible to the public.

3. The provisions of this Article do not include an obligation to display the recommendations included in the energy performance certificate.

Article 14

Inspection of heating systems

1. Member States shall lay down the necessary measures to establish a 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. That 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 in the meantime.

Member States may reduce the frequency of such inspections or lighten them as appropriate, where an electronic monitoring and control system is in place.

2. Member States may 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.

3. 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.

4. As an alternative to paragraphs 1, 2 and 3 Member States may opt to take measures to ensure the provision of advice to users concerning the replacement of boilers, other modifications to the heating system and alternative solutions to assess the efficiency and appropriate size of the boiler. The overall impact of this approach shall be equivalent to that arising from the provisions set out in paragraphs 1, 2 and 3.

Where Member States choose to apply the measures referred to in the first subparagraph, they shall submit to the Commission a report on the equivalence of those measures to measures referred to in paragraphs 1, 2 and 3 of this Article by 30 June 2011 at the latest. Member States shall submit these reports to the Commission every three years. The reports may be included in the Energy Efficiency Action Plans referred to in Article 14(2) of Directive 2006/32/EC.

5. After receiving the national report from a Member State about the application of the option as described in paragraph 4, the Commission may request further specific information regarding the requirements and equivalence of the measures set out in that paragraph. In that case, the Member State concerned shall present the requested information or propose amendments within nine months.

*Article 15***Inspection of air-conditioning systems**

1. Member States shall lay down the necessary measures to establish a regular inspection of the accessible parts of air-conditioning systems of an effective rated output of more than 12 kW. The 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 does not have to be repeated as long as no changes were made to this air-conditioning system or as regards the cooling requirements of the building in the meantime.

Member States may reduce the frequency of such inspections or lighten them, as appropriate, where an electronic monitoring and control system is in place.

2. The Member States may 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.

3. In laying down the measures referred to in paragraphs 1 and 2 of this Article, Member States shall, as far as is economically and technically feasible, ensure that inspections are carried out in accordance with the inspection of heating systems and other technical systems referred to in Article 14 of this Directive and the inspection of leakages referred to in Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases ⁽¹⁾.

4. As an alternative to paragraphs 1, 2 and 3 Member States may opt to take measures to ensure the provision of advice to users on the replacement of air-conditioning systems or on other modifications to the air-conditioning system which may include inspections to assess the efficiency and appropriate size of the air-conditioning system. The overall impact of this approach shall be equivalent to that arising from the provisions set out in paragraphs 1, 2 and 3.

Where Member States apply the measures referred to in the first subparagraph, they shall, by 30 June 2011 at the latest, submit to the Commission a report on the equivalence of those measures to the measures referred to in paragraphs 1, 2 and 3 of this Article. Member States shall submit these reports to the Commission every three years. The reports may be included in the Energy Efficiency Action Plans referred to in Article 14(2) of Directive 2006/32/EC.

5. After receiving the national report from a Member State about the application of the option as described in paragraph 4, the Commission may request further specific information regarding the requirements and equivalence of the measures

set in that paragraph. In this case, the Member State concerned shall present the requested information or propose amendments within nine months.

*Article 16***Reports on the inspection of heating and air-conditioning systems**

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 Article 14 or 15 and include recommendations for the cost-effective improvement of the energy performance of the inspected system.

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 system of similar type for which all relevant components achieve the level of energy performance required by the applicable legislation.

2. The inspection report shall be handed over to the owner or tenant of the building.

*Article 17***Independent experts**

Member States shall ensure that the energy performance certification of buildings and the inspection of heating systems and air-conditioning systems are 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 taking into account their competence.

Member States shall make available to the public information on training and accreditations. Member States 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.

*Article 18***Independent control system**

1. Member States shall ensure that independent control systems for energy performance certificates and reports on the inspection of heating and air-conditioning systems are established in accordance with Annex II. Member States may establish separate systems for the control of energy performance certificates and for the control of reports on the inspection of heating and air-conditioning systems.

⁽¹⁾ OJ L 161, 14.6.2006, p. 1.

2. The Member States may delegate the responsibilities for implementing the independent control systems.

Where the Member States decide to do so, they shall ensure that the independent control systems are implemented in compliance with Annex II.

3. Member States shall require the energy performance certificates and the inspection reports referred to in paragraph 1 to be made available to the competent authorities or bodies on request.

Article 19

Review

The Commission, assisted by the Committee established by Article 26, shall evaluate this Directive by 1 January 2017 at the latest, in the light of the experience gained and progress made during its application, and, if necessary, make proposals.

Article 20

Information

1. Member States shall take the 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.

2. Member States shall in particular provide information to the owners or tenants of buildings on energy performance certificates and inspection reports, their purpose and objectives, on cost-effective ways to improve the energy performance of the building and, where appropriate, on financial instruments available to improve the energy performance of the building.

At the request of the Member States, the Commission shall assist Member States in staging information campaigns for the purposes of paragraph 1 and the first subparagraph of this paragraph, which may be dealt with in Union programmes.

3. Member States shall ensure that guidance and training are made available for those responsible for implementing this Directive. 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.

4. The Commission is invited to continuously improve its information services, in particular the website that has been

set up as a European portal for energy efficiency in buildings directed towards citizens, professionals and authorities, in order to assist Member States in their information and awareness-raising efforts. Information displayed on this website might include links to relevant European Union and national, regional and local legislation, links to Europa websites that display the National Energy Efficiency Action Plans, links to available financial instruments, as well as best practice examples at national, regional and local level. In the context of the European Regional Development Fund, the Commission shall continue and further intensify its information services with the aim of facilitating the use of available funds by providing assistance and information to interested stakeholders, including national, regional and local authorities, on funding possibilities, taking into account the latest changes in the regulatory framework.

Article 21

Consultation

In order to facilitate the effective implementation of the Directive, Member States shall consult the stakeholders involved, including local and regional authorities, in accordance with the national legislation applicable and as relevant. Such consultation is of particular importance for the application of Articles 9 and 20.

Article 22

Adaptation of Annex I to technical progress

The Commission shall adapt points 3 and 4 of Annex I to technical progress by means of delegated acts in accordance with Articles 23, 24 and 25.

Article 23

Exercise of delegation

1. The powers to adopt the delegated acts referred to in Article 22 shall be conferred on the Commission for a period of five years beginning on 8 July 2010. The Commission shall make a report in respect of the delegated powers not later than six months before the end of the five-year period. The delegation of powers shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 24.

2. Without prejudice to the deadline referred to in Article 5(1), the powers to adopt the delegated acts referred to in Article 5 shall be conferred on the Commission until 30 June 2012.

3. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

4. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 24 and 25.

Article 24

Revocation of the delegation

1. The delegation of powers referred to in Articles 5 and 22 may be revoked by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 25

Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification.

At the initiative of the European Parliament or the Council that period shall be extended by two months.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period, if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 26

Committee procedure

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 27

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall communicate those provisions to the Commission by 9 January 2013 at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 28

Transposition

1. Member States shall adopt and publish, by 9 July 2012 at the latest, the laws, regulations and administrative provisions necessary to comply with Articles 2 to 18, and with Articles 20 and 27.

They shall apply those provisions as far as Articles 2, 3, 9, 11, 12, 13, 17, 18, 20 and 27 are concerned, from 9 January 2013 at the latest.

They shall apply those provisions as far as Articles 4, 5, 6, 7, 8, 14, 15 and 16 are concerned, to buildings occupied by the public authorities from 9 January 2013 at the latest and to other buildings from 9 July 2013 at the latest.

They may defer the application of Article 12(1) and (2) to single building units that are rented out, until 31 December 2015. This shall however not result in fewer certificates being issued than would have been the case under the application of the Directive 2002/91/EC in the Member State concerned.

When Member States adopt measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to Directive 2002/91/EC shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 29

Repeal

Directive 2002/91/EC, as amended by the Regulation indicated in Annex IV, Part A, is hereby repealed with effect from 1 February 2012, without prejudice to the obligations of the Member States relating to the time limit for transposition into national law and application of the Directive set out in Annex IV, Part B.

References to Directive 2002/91/EC shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

Article 30

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 31

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 19 May 2010.

For the European Parliament

The President

J. BUZEK

For the Council

The President

D. LÓPEZ GARRIDO

ANNEX I

**Common general framework for the calculation of energy performance of buildings
(referred to in Article 3)**

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 Union legislation, including Directive 2009/28/EC.

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;
 - (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.
-

ANNEX II

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.

ANNEX III

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.

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 this Directive.

The Commission shall also provide:

- guidelines to accompany the comparative methodology framework; these guidelines will serve to enable the Member States to undertake the steps listed below,
- information on estimated long-term energy price developments.

For the application of the comparative methodology framework by Member States, general conditions, expressed by parameters, shall be laid down at Member State level.

The comparative methodology framework shall require Member States to:

- define reference buildings that are characterised by and representative of their functionality and geographic location, including indoor and outdoor climate conditions. The reference buildings shall cover residential and non-residential buildings, both new and existing ones,
- define energy efficiency measures to be assessed for the reference buildings. These may be measures for individual buildings as a whole, for individual building elements, or for a combination of building elements,
- assess the final and primary energy need of the reference buildings and the reference buildings with the defined energy efficiency measures applied,
- calculate the costs (i.e. the net present value) of the energy efficiency measures (as referred to in the second indent) during the expected economic lifecycle applied to the reference buildings (as referred to in the first indent) by applying the comparative methodology framework principles.

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.

ANNEX IV

PART A

**Repealed Directive with its successive amendment
(referred to in Article 29)**

Directive 2002/91/EC of the European Parliament and of the Council (OJ L 1, 4.1.2003, p. 65)

Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ L 311, 21.11.2008, p. 1) only point 9.9 of the Annex

PART B

**Time limits for transposition into national law and application
(referred to in Article 29)**

Directive	Time limit for transposition	Date of application
2002/91/EC	4 January 2006	4 January 2009 as regards Articles 7, 8 and 9 only

ANNEX V

Correlation table

Directive 2002/91/EC	This Directive
Article 1	Article 1
Article 2, point (1)	Article 2, point (1)
—	Article 2, points (2) and (3)
Article 2, point (2)	Article 2, point (4) and Annex I
—	Article 2, points (5), (6), (7), (8), (9), (10) and (11)
Article 2, point (3)	Article 2, point (12)
Article 2, point (4)	Article 2, point (13)
—	Article 2, point (14)
Article 2, point (5)	Article 2, point (15)
Article 2, point (6)	Article 2, point (16)
Article 2, point (7)	Article 2, point (17)
Article 2, point (8)	Article 2, point (18)
—	Article 2, point (19)
Article 3	Article 3 and Annex I
Article 4(1)	Article 4(1)
Article 4(2)	—
Article 4(3)	Article 4(2)
—	Article 5
Article 5	Article 6(1)
—	Article 6(2) and (3)
Article 6	Article 7
—	Articles 8, 9 and 10
Article 7(1) first subparagraph	Article 11(8) and Article 12(2)
Article 7(1) second subparagraph	Article 11(6)
Article 7(1) third subparagraph	Article 12(6)
Article 7(2)	Article 11(1) and (2)
—	Article 11(3), (4), (5), (7) and (9)
—	Article 12(1), (3), (4), (5) and (7)
Article 7(3)	Article 13(1) and (3)
—	Article 13(2)
Article 8, point (a)	Article 14(1) and (3)
—	Article 14(2)
Article 8, point (b)	Article 14(4)
—	Article 14(5)
Article 9	Article 15(1)

Directive 2002/91/EC	This Directive
—	Article 15(2), (3), (4) and (5)
—	Article 16
Article 10	Article 17
—	Article 18
Article 11, introductory wording	Article 19
Article 11, points (a) and (b)	—
Article 12	Article 20(1) and Article 20(2) second subparagraph
—	Article 20(2) first subparagraph and Article 20(3) and (4)
—	Article 21
Article 13	Article 22
—	Articles 23, 24 and 25
Article 14(1)	Article 26(1)
Article 14(2) and (3)	—
—	Article 26(2)
—	Article 27
Article 15(1)	Article 28
Article 15(2)	—
—	Article 29
Article 16	Article 30
Article 17	Article 31
Annex	Annex I
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