



STATUTORY INSTRUMENTS

**S.I. No. 229 of 2008**



EUROPEAN COMMUNITIES (ENERGY PERFORMANCE OF  
BUILDINGS) (AMENDMENT) REGULATIONS 2008

**(Prn. A8/0944)**

## EUROPEAN COMMUNITIES (ENERGY PERFORMANCE OF BUILDINGS) (AMENDMENT) REGULATIONS 2008

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by Section 3 of the European Communities Act 1972 (No. 27 of 1972 as amended by Section 2 of the European Communities Act 2007 (No. 18 of 2007)) and for the purpose of giving further effect to certain provisions of Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings<sup>1</sup>, hereby makes the following Regulations:

*Citation and commencement*

1. (1) These Regulations may be cited as the European Communities (Energy Performance of Buildings) (Amendment) Regulations 2008.

(2) These Regulations and the European Communities (Energy Performance of Buildings) Regulations 2006 (S.I. No. 666 of 2006) shall be construed as one and cited together as the European Communities (Energy Performance of Buildings) Regulations 2006 — 2008.

(3) These Regulations shall come into operation on 1 July 2008.

*Application*

2. The European Communities (Energy Performance of Buildings) Regulations 2006 (S.I. No. 666 of 2006) are hereby amended by substituting the following for Regulations 7(1), 7(2) and 7(3):

“7 (1) (a) A person who commissions the construction of a building of a class referred to in subparagraph (a) of paragraph (4) construction of which commences on or after such date specified for that class in the said subparagraphs shall, before such building is occupied for the first time, secure a BER certificate (in the form prescribed by the *First Schedule* or *Second Schedule* to these Regulations, as appropriate) and advisory report in relation to the building and shall produce a printed copy of such BER certificate and advisory report to the building control authority in whose functional area the building is situated, on demand being made by that authority for its production.

(b) A person who commissions the construction of a building of a class referred to in subparagraph (b) of paragraph (4) construction of which commences on or after such date specified for that

<sup>1</sup>OJ No. L 1/65, 4 January 2003

class in the said subparagraphs shall, before such building is occupied for the first time, secure a BER certificate (in the form prescribed by the *Third Schedule* or *Fourth Schedule* to these Regulations, as appropriate) and advisory report in relation to the building and shall produce a printed copy of such BER certificate and advisory report to the building control authority in whose functional area the building is situated, on demand being made by that authority for its production.

(2) (I) A person who offers for sale or letting (whether in writing or otherwise)—

(a) a building of a class referred to in subparagraph (a) of paragraph (4) construction of which commences on or after such date specified for that class in the said subparagraphs, hereinafter referred to as a ‘new building’, or

(b) on or after 1 January 2009, a building that is in existence on or before 1 January 2009,

and any agent acting on behalf of such person in connection with such offering, shall produce a printed copy of the BER certificate (in the form prescribed in the *First Schedule* to these Regulations) and advisory report in relation to the building to any person expressing an interest in purchasing or taking a letting of the building and, on demand, to the building control authority in whose functional area the building is situated.

(2) (II) A person who offers for sale or letting (whether in writing or otherwise)—

(a) a building of a class referred to in subparagraph (b) of paragraph (4) construction of which commences on or after such date specified for that class in the said subparagraphs, hereinafter referred to as a ‘new building’, or

(b) on or after 1 January 2009, a building that is in existence on or before 1 January 2009,

and any agent acting on behalf of such person in connection with such offering, shall produce a printed copy of the BER certificate (in the form prescribed in the *Third Schedule* to these Regulations) and advisory report in relation to the building to any person expressing an interest in purchasing or taking a letting of the building and, on demand, to the building control authority in whose functional area the building is situated.

(3) (I) Where a new building is constructed, the following applies for the purposes of subparagraph (2)(I)(a):

(i) where the building is being offered for sale or letting (whether in writing or otherwise) on the basis of the plans and specifications for its proposed construction, a printed copy of the

provisional BER certificate in the form prescribed in the *Second Schedule* to these Regulations based on these plans and specifications in relation to the proposed building, and related advisory report, shall be produced to any of the persons referred to in paragraph (2);

- (ii) on the completion of construction of the building referred to in subparagraph (i) a printed copy of the BER certificate in the form prescribed in the *First Schedule* to these Regulations and of the related advisory report in relation to the completed building, which take account of any changes implemented during its construction relative to the plans, specifications or other data on which the provisional BER was based, shall be produced to any purchaser or tenant, before completion of such sale or letting and, on demand, to the building control authority in whose functional area the building is situated.

(3) (II) Where a new building is constructed, the following applies for the purposes of subparagraph (2) (II) (a):

- (i) where the building is being offered for sale or letting (whether in writing or otherwise) on the basis of the plans and specifications for its proposed construction, a printed copy of the provisional BER certificate in the form prescribed in the *Fourth Schedule* to these Regulations based on these plans and specifications in relation to the proposed building, and related advisory report, shall be produced to any of the persons referred to in paragraph (2);
- (ii) on the completion of construction of the building referred to in subparagraph (i) a printed copy of the BER certificate in the form prescribed in the *Third Schedule* to these Regulations and of the related advisory report in relation to the completed building, which take account of any changes implemented during its construction relative to the plans, specifications or other data on which the provisional BER was based, shall be produced to any purchaser or tenant, before completion of such sale or letting and, on demand, to the building control authority in whose functional area the building is situated.”.

3. The European Communities (Energy Performance of Buildings) Regulations 2006 (S.I. No. 666 of 2006) are amended by inserting the following Schedules after the Second Schedule.

“THIRD SCHEDULE

Article 7.

FORM OF BUILDING ENERGY RATING (BER) FOR NEW BUILDINGS OTHER THAN DWELLINGS

NEAP Version X.Y.Z

Building Energy Rating (BER)

BER for the building detailed below is:

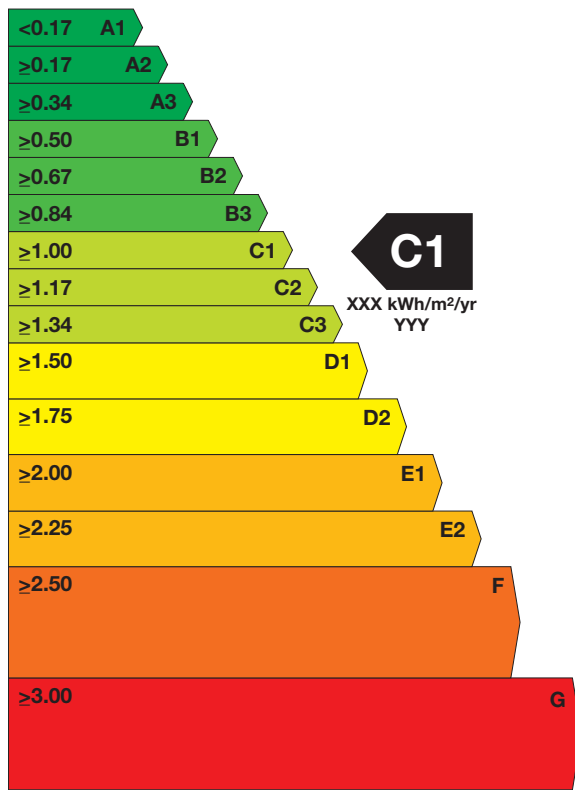
**C1**

The Building Energy Rating (BER) is an indicator of the energy performance of this building. It covers energy use for space heating and cooling, water heating, ventilation and lighting, calculated on the basis of standard operating patterns. It is accompanied by a CO<sub>2</sub> emissions indicator. These indicators are expressed as respective ratios of primary energy use and CO<sub>2</sub> emissions, relative to what would apply for a similar building generally satisfying the Building Regulations 2005. 'A' rated properties are the most energy efficient and will tend to have the lowest energy bills.

Name of Building,  
Street Name One, Street Name Two,  
Town Name One, Town Name Two,  
County Name One, County Name Two

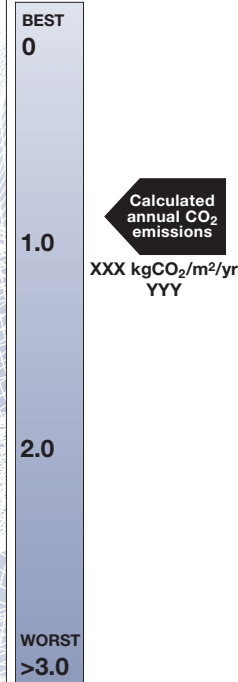
BER Number:	XXXX-XXXX-XXXX-XXXX-XXXX	Date of Issue:	Day Month Year
Building Type:	XXXXXX	Valid Until:	Day Month Year
Useful Floor Area (m <sup>2</sup> ):	XXXXXXXXXXXX	BER Assessor No.:	XXXXXX
Main Heating Fuel:	XXXXXXXXXXXX	Assessor Company No.:	XXXXXX
Building Environment:	XXXXXXXXXXXX	Assessor Scheme:	XXXXXX
	XXXXXXXXXXXX		

Building Energy Rating (Indicator)



**C1**  
XXX kWh/m<sup>2</sup>/yr  
YYY

Carbon Dioxide (CO<sub>2</sub>) Emissions Indicator



The less CO<sub>2</sub> produced, the less the building contributes to global warming.

**IMPORTANT:** This BER is calculated on the basis of data provided to and by the BER Assessor, and using the version of the assessment software quoted above. A future BER assigned to this building may be different as a result of changes to the building, its use or the assessment software.

FOURTH SCHEDULE

FORM OF PROVISIONAL BUILDING ENERGY RATING (BER) FOR NEW BUILDINGS  
OTHER THAN DWELLINGS

NEAP Version X.Y.Z

**Provisional Building Energy Rating (BER)**

Provisional BER for the building detailed below is:

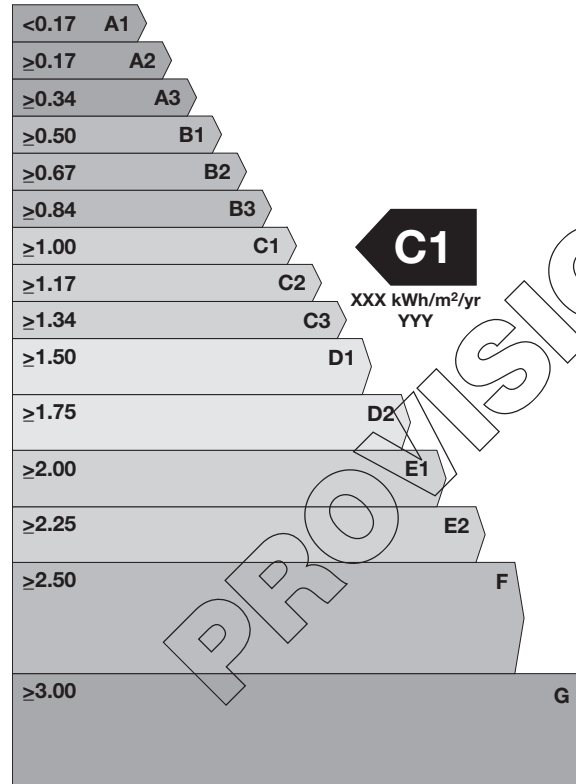
**C1**

The Building Energy Rating (BER) is an indicator of the energy performance of this building. It covers energy use for space heating and cooling, water heating, ventilation and lighting, calculated on the basis of standard operating patterns. It is accompanied by a CO<sub>2</sub> emissions indicator. These indicators are expressed as respective ratios of primary energy use and CO<sub>2</sub> emissions, relative to what would apply for a similar building generally satisfying the Building Regulations 2005. 'A' rated properties are the most energy efficient and will tend to have the lowest energy bills.

Name of Building,  
Street Name One, Street Name Two,  
Town Name One, Town Name Two,  
County Name One, County Name Two

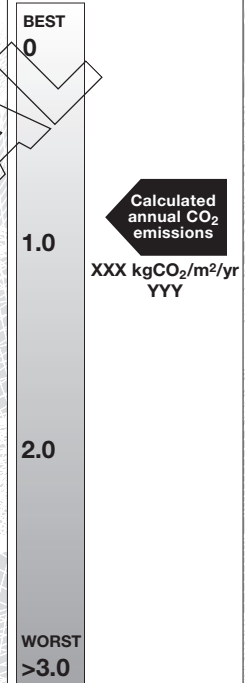
BER Number:	XXXX-XXXX-XXXX-XXXX	Date of Issue:	Day Month Year
Building Type:	XXXXXX	Valid Until:	Day Month Year
Useful Floor Area (m <sup>2</sup> ):	XXXXXXXXXXXX	BER Assessor No.:	XXXXXX
Main Heating Fuel:	XXXXXXXXXXXX	Assessor Company No.:	XXXXXX
Building Environment:	XXXXXXXXXXXX	Assessor Scheme:	XXXXXX

**Building Energy Rating (Indicator)**  
MOST EFFICIENT



LEAST EFFICIENT

**Carbon Dioxide (CO<sub>2</sub>) Emissions Indicator**



The less CO<sub>2</sub> produced, the less the building contributes to global warming.

**IMPORTANT:** This provisional BER is calculated on the basis of pre-construction plans and specifications provided to the BER assessor, and using the version of the assessment software quoted above. The BER assigned to this building on completion may be different, in the event of changes to those plans or specifications, or to the assessment software.



GIVEN under the Official Seal of the Minister for the Environment,  
Heritage and Local Government,  
1 July 2008

JOHN GORMLEY.

Minister for the Environment, Heritage and Local Government.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations amend the European Communities (Energy Performance of Buildings) Regulations 2006 (S.I. No. 666 of 2006). They provide for BER Certificates for Buildings other than Dwellings.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834/37 nó 1890 213434; Fax: 01 - 6476843 nó 094 - 9378964)  
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