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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2010/31/EU on the energy performance of buildings

Delegations will find attached a further revised version of the general approach reached on the above mentioned proposal, reflecting delegations' comments. The changes are not intended to introduce any change of substance to the general approach.

This document will be used to prepare the 4 column document for the forthcoming negotiations with the European Parliament.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2010/31/EU on the energy performance of buildings

(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,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p. .

² OJ C , , p. .

- (1) The Union is committed to developing a sustainable, competitive, secure and decarbonised energy system. The Energy Union and the Energy and Climate Policy Framework for 2030 establish ambitious Union commitments to reduce greenhouse gas emissions further (by at least 40 % by 2030, as compared with 1990), to increase the proportion of renewable energy consumed (by at least 27 %) and to make energy savings of at least 27 %, reviewing this level having in mind an Union level of 30 %¹, and to improve Europe's energy security, competitiveness and sustainability.
- (2) To reach those objectives, the 2016 review of the Energy Efficiency legislation combines the reassessment of the EU's energy efficiency target for 2030 as requested by the European Council in 2014, the review of the core articles of the Energy Efficiency Directive and the Energy Performance of Buildings Directive and the reinforcement of the enabling financing environment including the European Structural and Investment Funds (ESIF) and the European Fund for Strategic Investments (EFSI), which will ultimately improve the financial conditions of energy efficiency investments on the market.
- (3) Article 19 of Directive 2010/31/EU of the European Parliament and of the Council² requires the Commission to carry out a review by 1 January 2017 at the latest, in the light of the experience gained and progress made during the application of that Directive, and if necessary, to make proposals.
- (4) To prepare for that review, the Commission took a series of steps to gather evidence on how Directive 2010/31/EU has been implemented in the Member States, focusing on what works and what could be improved.

¹ EUCO 169/14, CO EUR 13, CONCL 5, Brussels 24 October 2014.

² Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).

- (5) The outcome of the review and impact assessment indicated that a series of amendments are required to strengthen the current provisions of Directive 2010/31/EU and to simplify certain aspects.
- (6) The Union is committed to developing a sustainable, competitive, secure, and decarbonised energy system by 2050¹. To meet this goal, Member States and investors need measures that aim to reach the long-term greenhouse gas emission goal and decarbonise the building stock by-2050. To that end, Member States should identify indicative intermediary steps for the mid-term (2030) and for the long-term (2050).
- (7) The provisions on long-term renovation strategies provided for in Directive 2012/27/EU of the European Parliament and of the Council ² should be moved to Directive 2010/31/EU, where they fit more coherently. Member States may use their long-term renovation strategies to address risks related to intense seismic activity affecting energy efficiency renovations and the lifetime of buildings.
- (8) The agendas of the Digital Single Market and the Energy Union should be aligned and should serve common goals. The digitalisation of the energy system is quickly changing the energy landscape, from the integration of renewables to smart grids and smart-ready buildings. In order to digitise the building sector, targeted incentives should be provided to promote smart-ready systems and digital solutions in the built environment.

¹ Communication on an *Energy roadmap 2050*, (COM(2011) 885 final).

² Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

- (9) In order to ensure uniform conditions for the implementation of this Directive, implementing powers on the common European Union scheme for rating the smart readiness of buildings should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. The smartness indicator should be used to measure buildings' capacity to use ICT and electronic systems to optimise operation and interact with the grid. The smartness indicator should raise awareness amongst building owners and occupants of the value behind building automation and electronic monitoring of technical building systems and should give confidence to occupants about the actual savings of these new enhanced-functionalities. The use of the scheme for rating the smart readiness of buildings should be voluntary for Member States.
- (9a) In order to ensure consistency with the Interinstitutional Agreement on Better Law-Making of 13 April 2016, the provisions relating to the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be amended. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (10) Innovation and new technology also make it possible for buildings to support the overall decarbonisation of the economy. For example, buildings can be leveraged for the development of the infrastructure necessary for the smart charging of electric vehicles and also provide a basis for Member States, if they choose to, to use car batteries as a source of power.

- (10a) Combined with an increased share of renewable electricity production, electric vehicles produce less carbon emissions and result in better air quality. Electric vehicles constitute a key component of a clean energy transition based on energy efficiency measures, alternative fuels, renewable energies and innovative energy flexibility management solutions. Building codes can be effectively leveraged through the introduction of targeted requirements to support the deployment of the recharging infrastructure in car parks of residential and non-residential buildings. Member States should also provide for measures to simplify the deployment of recharging infrastructure with a view to addressing barriers such as split incentives and administrative complications which individual owners encounter when trying to install a recharging point on their parking space.
- (10b) Readily available infrastructure will decrease the costs of installation of recharging points for individual owners and ensure electric vehicle users have access to recharging points. Establishing requirements for electro-mobility at Union level concerning the pre-equipment of parking spaces and the installation of charging points is an effective way to promote electric vehicles in the near future while enabling further developments at reduced costs in the medium to long-term.
- (10c) However, some geographical areas with specific vulnerabilities may face specific difficulties in fulfilling the requirements on electro-mobility. This could be the case for the outermost regions within the meaning of Article 349 TFEU, due to their remoteness, insularity, small size, difficult topography and climate, as well as micro isolated systems, whose electricity grid might need to evolve to cope with a further electrification of local transport. **In such cases, a possibility should be given to Member States should be allowed not to apply the requirements on electro-mobility. However, Notwithstanding this derogation, in other such regions and systems,** the electrification of transport may be a powerful tool to address air quality or security of supply problems which ~~such~~ **these** regions and systems often face.

- (11) The impact assessment identified two existing sets of provisions, whose aim could be achieved more efficiently. First, the obligation **to carry out, before starting any construction, starts, to carry out** a feasibility study on highly-efficient alternative systems **before starting any construction, is** an unnecessary burden. Second, provisions concerning the inspections of heating systems and air-conditioning systems were found to be inefficient in that they did not sufficiently ensure the initial and continued performance of these technical systems. Even cheap energy efficiency technical solutions with very short payback periods, such as hydraulic balancing of the heating system and installation/replacement of thermostatic control valves, are insufficiently considered today. The provisions on inspections should be amended to ensure a better result from inspections. Those amendments should place the focus of inspections on central heating and air conditioning systems, and should exclude small heating systems such as electric heaters and wood stoves.
- (12) Building automation and electronic monitoring of technical building systems have proven to be an effective replacement for inspections, in particular for large systems. The installation of such equipment should be considered as the most cost-effective alternative to inspections in large non-residential and multi-apartment buildings of a sufficient size that allow a payback of less than three years. For small scale installations, the documentation of the system performance by installers will support the verification of compliance with the minimum requirements set for all technical building systems.
- (12a) The implementation of regular inspection schemes of heating and air conditioning systems under Directive 2010/31/EU involved a significant administrative and financial investment by Member States and the private sector, including training and accreditation of experts, quality assurance and control, and the costs of inspections. Member States that have adopted the necessary measures to establish regular inspections, and that have implemented effective inspection schemes, may find appropriate to continue to operate those schemes, including for smaller heating and air conditioning systems. In such cases, there should be no obligation for Member States to notify those more stringent requirements to the Commission.

- (13) To ensure that financial measures related to energy efficiency are applied in the best way in building renovation, they should be linked to the quality of the renovation works. Those measures should therefore be linked to the performance of the equipment or material used for the renovation, and to the level of certification or qualification of the installer, or to the improvement achieved due to the renovation, which should be assessed by comparing energy performance certificates (EPCs) issued before and after the renovation, or another transparent and proportionate method.
- (14) [deleted]
- (15) The current independent control systems for EPCs can be used for compliance checking and should be strengthened to ensure certificates are of good quality. Where the independent control systems for EPCs is complemented by a database, going beyond the requirements of this Directive, it can be used for compliance checking and for producing statistics on the regional/national building stocks. High-quality data on the building stock is needed and this could be partially generated by the databases that almost all Member States are currently developing and managing for EPCs.
- (16) To meet the objectives of energy efficiency policy for buildings, the transparency of EPCs should be improved by ensuring that that all necessary parameters for calculations, for both certification and minimum energy performance requirements, are set out and applied consistently. Member States should adopt adequate measures to ensure, for example, that the performance of installed, replaced or ~~updated~~ **upgraded** technical building systems for space heating, air conditioning or water heating is documented in view of building certification and compliance checking.

- (17) Commission Recommendation (EU) 2016/1318 of 29 July 2016 on nearly zero-energy buildings described how the implementation of this Directive could simultaneously ensure the transformation of the building stock and the shift to a more sustainable energy supply, which also supports the heating and cooling strategy¹. To make sure appropriate implementation takes place, the general framework for the calculation of the energy performance of buildings should be updated with the support of the work elaborated by the European Committee for Standardisation (CEN), under Mandate M/480 from the European Commission.
- (18) The provisions of this Directive should not prevent Member States from setting more ambitious energy performance requirements for buildings and for building elements as long as such requirements are compatible with Union law. It is consistent with the objectives of this Directive and of Directive 2012/27/EC that these requirements may, in certain circumstances, limit the installation or use of products subject to other applicable Union harmonisation legislation, provided that such requirements should not constitute an unjustifiable market barrier.
- (19) Since the objectives of this Directive, namely to reduce the energy needed to meet the energy demand associated with the typical use of buildings, cannot be sufficiently achieved by the Member States but can rather, by reason of **the** guaranteed consistency of shared objectives, understanding and political drive, 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 the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

¹ COM(2016) 51 final

- (20) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (21) Directive 2010/31/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

¹ OJ C 369, 17.12.2011, p. 14.

Article 1

Directive 2010/31/EU is amended as follows:

(1) in Article 2, point 3 is replaced by the following:

‘3. ‘technical building system’ means technical equipment for space heating, space cooling, ventilation, domestic hot water, built-in lighting, building automation and control, on-site electricity generation, or a combination of such systems, including those systems using energy from renewable sources, of a building or building unit;’;

(1a) in Article 2, the following points are inserted:

‘15a. ‘heating system’ means a combination of the components required to provide a form of indoor air treatment, by which temperature is increased’;

‘15b. ‘heat generator’ means the part of a heating system that generates useful heat using one or more of the following processes:

(a) the combustion of fuels in, for example, a boiler;

(b) the Joule effect, taking place in the heating elements of an electric resistance heating system;

(c) capturing heat from ambient air, ventilation exhaust air, water or ground heat source(s) using a heat pump’;

‘(20) ‘micro isolated system’ means any system with consumption less than 500 GWh in the year 1996, where there is no connection with other systems.’;

(2) **The following** Article 2a is inserted ~~after Article 2:~~

'Article 2a

‘Long-term renovation strategy’

1. Member States shall establish a long-term strategy for mobilising investment in the renovation of the national stock of residential and non-residential buildings, both public and private. This strategy shall encompass:
 - (a) an overview of the national building stock based, as appropriate, on statistical sampling and expected share of refurbished buildings in 2020;
 - (b) identification of cost-effective approaches to renovations relevant to the building type and climatic zone;
 - (c) policies and measures to stimulate cost-effective deep renovations of buildings, including staged deep renovations;
 - (d) a forward-looking perspective to guide investment decisions of individuals, the construction industry and financial institutions;
 - (e) an evidence-based estimate of expected energy savings and wider benefits.
2. In their long-term renovation strategy Member States shall set out a roadmap with measures that aim, with a view to the long-term 2050 goal of reducing greenhouse gas emissions in the Union by 80-95 % compared to 1990, to ensure a highly energy efficient and decarbonised national building stock. The roadmap shall include indicative milestones for 2030 and 2050.

In addition, the long-term renovation strategy shall take into account the need to alleviate energy poverty, in accordance with the criteria to be defined by Member States.¹

3. To guide investment decisions as referred to in point (d) of paragraph 1, Member States shall consider the introduction of mechanisms for:

- (a) the aggregation of projects, to make it easier for investors to fund the renovations referred to in points (b) and (c) of paragraph 1;
- (b) reducing the perceived risk of energy efficiency operations for investors and the private sector; and
- (c) the use of public funding to leverage additional private-sector investment or address specific market failures.

4. Member States may use their long-term renovation strategies to address risks related to intense seismic activity affecting energy efficiency renovations and the lifetime of buildings.’;

(3) Article 6 is replaced by the following:

¹ Subject to the outcome of the discussions on Directive [XXXX] on common rules for the internal market in electricity, Article 29 of that Directive may be cross-referenced. In addition, recitals 40 or 41 of that Directive should be supplemented with a clarification that energy policy is considered as a potential contribution to mitigating energy poverty in general and not as its cause.

'Article 6

New buildings

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

- (4) in Article 7, the fifth paragraph is deleted;
- (5) Article 8 is amended as follows:
 - (a) in paragraph 1, the third subparagraph is deleted;
 - (b) paragraph 2 is replaced by the following:

‘2. With regard to new non-residential buildings and non-residential buildings undergoing major renovation, ~~which have~~ **provided that the building has** more than ten parking spaces and the building and the parking spaces are owned by the same entity, Member States shall ensure that at least one recharging point within the meaning of Directive 2014/94/EU on the deployment of alternative fuels infrastructure¹ is installed, which is capable of starting and stopping charging in reaction to price signals, together with ducting infrastructure, that is, conduits for electric cables, to enable the installation at a later stage of recharging points for electric vehicles for at least one in every three parking spaces in the following situations:

- a) the car park is located inside the building, and, for major renovations, the renovation measures include the car park or the electric infrastructure of the building; or
- b) the car park is physically adjacent to the building and, for major renovations, the renovation measures include the car park.

¹ OJ L 307, 28.10.2014, p. 1

The Commission shall report to the European Parliament and the Council by 1 January 2023 on the scope for a European building policy in contributing to the promotion of electromobility and propose measures if appropriate.

Member States may decide not to set or apply the requirements referred to in this paragraph to buildings owned and occupied by small and medium-sized enterprises as defined in Title I of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003.

3. With regard to new residential buildings and residential buildings undergoing major renovations, ~~which have~~ **provided that the building has** more than ten parking spaces, Member States shall ensure that ducting infrastructure, that is, conduits for electric cables, is installed, in order to enable at a later stage the installation of recharging points for electric vehicles for every parking space in the following situations:

- a) the car park is located inside the building, and, for major renovations, the renovation measures include the car park or the electric infrastructure of the building; or
- b) the car park is physically adjacent to the building and, for major renovations, the renovation measures include the car park.

3a. Paragraph 2 and paragraph 3 shall not apply to buildings in relation to which building permit applications or equivalent applications have been submitted before or within one year after the date referred to in Article 3(1) of this Directive.

3b. Member States shall provide for measures in order to simplify the deployment of recharging points in new and existing residential and non-residential buildings, without prejudice to the property and tenancy law of the Member States.

4. Member States may decide not to set or apply the requirements referred to in paragraphs 2 and 3 to public buildings which are already covered by Directive 2014/94/EU and to buildings located in micro isolated ~~energy~~ systems or in outermost regions within the meaning of Article 349 TFEU if this would lead to substantial problems for the operation of the local energy system and would endanger the stability of the local grid.

4a. For existing buildings, Member States may decide not to apply or set the requirements set out in paragraphs 2 and 3, if the cost of the recharging and ducting installations exceeds 5% of the total cost of the major renovation.

(c) the following paragraphs are added:

‘5. Member States shall ensure that, when a technical building system for space heating, air conditioning or water heating is installed, replaced or upgraded, unless this does not have an impact on its energy performance, the new performance of the system or of the altered part is documented and passed on to the building owner, so that it remains available and can be used for the verification of compliance with the minimum requirements set pursuant to paragraph 1 and the issue of energy performance certificates. Without prejudice to Article 12, Member States shall decide whether to require the issue of a new energy performance certificate.

6. The Commission shall, by 31 December 2019, in consultation with the relevant sectors, adopt an implementing measure on a voluntary common European Union scheme for rating the smart readiness of buildings. The scheme will:

- a) include the definition of a smart readiness indicator,
- b) establish a methodology to calculate it and
- c) provide technical input on the modalities for its effective implementation at national level, in line with Annex Ia.

That measure shall be adopted in accordance with the examination procedure referred to in Article 26. Member States may recognise or use the scheme by adapting it to national circumstances. The scheme for rating the smart readiness of a building shall be voluntary for both building owners and Member States. '

(6) Article 10 is amended as follows:

(a) paragraph 6 is replaced by the following:

‘6. Member States shall link their financial measures for energy efficiency improvements in the renovation of buildings:

- a) to the energy performance of the equipment or material used for the renovation. In this case, the equipment or material used for the renovation shall be installed by an installer with the relevant level of certification or qualification;
- b) to the improvement achieved due to such renovation by comparing energy performance certificates issued before and after renovation; or¹

¹ It is a general drafting rule of EU law that the link between the different items in the list is indicated only at the end of the penultimate item and applies to the entire list.

c) to the results of another relevant, transparent and proportionate method that indicates the improvement in energy performance.’;

(b) the following paragraph is inserted:

‘6a. If a Member State puts in place a database for EPCs, aggregated anonymised data compliant with Union and national data protection requirements shall be made available on request for statistical and research purposes, at least to the public authorities.’;

(7) Article 14 is replaced by the following:

"Article 14

Inspection of heating systems

1. Member States shall lay down the necessary measures to establish regular inspection of the accessible parts of systems with an effective rated output for space heating purposes of over 70 kW, such as the heat generator, control system and circulation pump(s) used for heating buildings. The inspection shall include an assessment of the heat generator efficiency and the heat generator sizing compared with the heating requirements of the building. Where no changes have been made to the heating system or as regards the heating requirements of the building since an inspection pursuant to this paragraph **was carried out**, Member States may choose not to require the assessment of the heat generator sizing to be repeated.

Member States that maintain more stringent requirements pursuant to Article 1(3) shall be exempted from the obligation to notify them to the Commission.!

'2a. As an alternative to paragraph 1, Member States may opt to take measures to ensure that adequate advice is given to users concerning the replacement of heat generators, other modifications to the heating system and alternative solutions to assess the efficiency and appropriate size of the heating generator. The overall impact of such an approach shall be equivalent to the impact arising from the measures taken pursuant to paragraph 1.

2. As an alternative to paragraph 1 for non-residential buildings, Member States may set requirements to ensure that non-residential buildings are equipped with building automation and control systems. The building automation and control systems shall be capable of:

- (a) continuously monitoring, analysing and allowing for adjusting energy usage;
- (b) benchmarking the building's energy efficiency, detecting losses in efficiency of technical building systems, and informing the person responsible for the facilities or technical building management about opportunities for energy efficiency improvement; and
- (c) allowing communication with connected technical building systems and other appliances inside the building, and being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.

3. As an alternative to paragraph 1 for residential buildings, Member States may set requirements to ensure that residential buildings are equipped with:

- (a) continuous electronic monitoring that measures systems' efficiency and inform building owners or managers when it has fallen significantly and when system servicing is necessary, and

- (b) effective control functionalities to ensure optimum generation, distribution and use of energy.’;

(8) Article 15 is replaced by the following:

‘1. Member States shall lay down the necessary measures to establish a regular inspection of the accessible parts of air-conditioning systems with an effective rated output of over 70 kW. The inspection shall include an assessment of the air-conditioning efficiency and the sizing compared to the cooling requirements of the building. Where no changes have been made to ~~this~~ **the** air-conditioning system or as regards the cooling requirements of the building ~~following~~ **since** an inspection pursuant to this paragraph **was carried out**, Member States may choose not to require the assessment of the sizing to be repeated.

Member States that maintain more stringent requirements pursuant to Article 1(3) shall be exempted from the obligation to notify them to the Commission.

2a. As an alternative to paragraph 1, Member States may opt to take measures to ensure the provision of advice to users concerning the replacement of air-conditioning systems, other modifications to the air-conditioning system and alternative solutions to assess the efficiency and appropriate size of the air-conditioning system. The overall impact of such an approach shall be equivalent to that arising from the provisions set out in paragraph 1.

2. As an alternative to paragraph 1 for non-residential buildings, Member States may set requirements to ensure that non-residential buildings are equipped with building automation and control systems. The building automation and control systems shall be capable of:

- (a) continuously monitoring, analysing and adjusting energy usage;

- (b) benchmarking the building's energy efficiency, detecting losses in efficiency of technical building systems, and informing the person responsible for the facilities or technical building management about opportunities for energy efficiency improvement; and
- (c) allowing communication with connected technical building systems and other appliances inside the building, and being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.

3. As an alternative to paragraph 1 for residential buildings, Member States may set requirements to ensure that residential buildings are equipped with:

- (a) continuous electronic monitoring that measures systems' efficiency and inform building owners or managers when it has fallen significantly and when system servicing is necessary, and
- (b) effective control functionalities to ensure optimum generation, distribution and use of energy.';

(9) in Article 19, '2017' is replaced by '2028' and the following sentence is added:

'As part of this review, the Commission shall examine the role of district or neighbourhood approaches in European building policy, for instance in the context of overall refurbishment schemes applying to a number of buildings in a spatial context instead of a single building'.

(10) in Article 20(2), the first subparagraph is replaced by the following:

'Member States shall in particular provide information to the owners or tenants of buildings on energy performance certificates, 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.';

(11) Article 23 is replaced by the following:

‘Article 23

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 5 and 22 shall be conferred on the Commission for a period of 5 years from XXX [*date of entry into force of the Directive*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Articles 5 and 22 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016¹.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

¹ OJ L 123, 12.5.2016, p. 1

6. A delegated act adopted pursuant to Articles 5 and 22 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’;

(12) Articles 24 and 25 are deleted;

(12a) Article 26 ~~shall be~~ is replaced by the following:

'Article 26

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.'

(13) The Annexes are amended in accordance with the Annex to this Directive.

Article 2

With the exception of its last subparagraph, the provisions of Article 4 of the Directive 2012/27/EU on energy efficiency¹ are deleted.

¹ OJ L 315, 14.11.2012, p. 13

Article 3¹

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by XXXX [*Please insert the date: 24 months following the date of entry into force*] at the latest. They shall immediately communicate ~~to the Commission~~ the text of those ~~provisions~~ **measures to the Commission**.

When Member States adopt those ~~provisions~~ **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 the Directive(s) repealed by this Directive 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 4

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

¹ Adaptations to this Article reflect the standard wording agreed between the legal services of the Commission, European Parliament and the Council.

Article 5

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX

Annexes to Directive 2010/31/EU are amended as follows:

1. Annex I is amended as follows:

(c) point 1 is replaced by the following:

‘1. The energy performance of a building shall be determined on the basis of the calculated or actual energy use and shall reflect its typical energy use for heating, cooling, domestic hot water, ventilation and built-in lighting (mainly in the non-residential sector).

The energy performance of a building shall be expressed by a numeric indicator of primary energy use in kWh/(m².y), for the purpose of both energy performance certification and compliance with minimum energy performance requirements. The methodology applied for its determination shall be transparent and open to innovation.

Member States shall describe their national calculation methodology following the national annexes of the overarching standards¹ developed under mandate M/480 given by the European Commission to the European Committee for Standardisation (CEN). This provision shall not constitute a requirement to comply with those standards. The description of national calculation methods shall be voluntary in the national annexes of the other standards². ’

¹ ISO/EN 52000-1, 52003-1, 52010-1, 52016-1, and 52018-1.

² EN 12098-1, EN 12098-3, EN 12098-5, EN 12831-1, EN 12831-3, EN 15232-1, EN 15316-1, EN 15316-2, EN 15316-3, EN 15316-4-1, EN 15316-4-2, EN 15316-4-3, EN 15316-4-4, EN 15316-4-5, EN 15316-5, EN 15378-1, EN 15378-3, EN 15459-1, EN 15500-1, EN 16798-3, EN 16798-5-1, EN 16798-5-2, EN 16798-7, EN 16798-9, EN 16798-13, EN 16798-15, EN 16798-17, EN 16946-1, EN 16947-1, EN ISO 10077-1, EN ISO 10077-2, EN ISO 10211, EN ISO 12631, EN ISO 13370, EN ISO 13786, EN ISO 13789, EN ISO 14683 and EN ISO 6946, ISO/EN 52017-1 and ISO/EN 52022-1.

- (d) point 2 is replaced by the following:

‘2. The energy needs for space heating, space cooling, domestic hot water and adequate ventilation shall be calculated in order to ensure minimum health and comfort levels defined by Member States.

The calculation of primary energy shall be based on primary energy or weighting factors per energy carrier, which may be based on national, regional or local annual weighted averages or on more specific information made available for individual district system.

Primary energy factors or weighting factors shall be defined by Member States. Primary energy factors shall take into account renewable energy with regard to the energy supplied through the energy carrier.

3. To express the energy performance of a building, Member States may choose to define additional numeric indicators of total, non-renewable and renewable primary energy use, and greenhouse gas emission produced in kg of CO₂ equivalent per m² per year.’;

- (e) in point 4, the introductory phrase is replaced by the following:

‘4. The positive influence of the following aspects shall be taken into account.’;

2. Annex II is amended as follows:

- (f) first paragraph of point 1 is replaced by the following:

‘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 all the energy performance certificates issued annually and subject them to verification. The sample shall be of a sufficient size to ensure statistically significant compliance results.’;

(g) point 3 is added:

‘3. When information is added to a database it shall be possible for national authorities to identify the originator of the addition, for monitoring and verification purposes.’;

3. The following Annex Ia is added:

'Annex Ia

Common general framework for rating the smart readiness of buildings

1. The smart readiness indicator, that is, an indicator characterising the capabilities of buildings with regard to operation, monitoring and management, interaction with occupants, demand response and interoperability of automation and control systems and technical building systems, shall provide synthetic and meaningful information to potential building owners and tenants.
2. The methodology for determining the smart readiness indicator shall allow for a cost-effective and reliable calculation of the smart readiness indicator, in a simple way and relying as much as possible on already available data. The methodology shall ensure technology and supplier neutrality and shall take into account European standards, in particular on interoperability, and comply with Union and national privacy and data protection rules.
3. The modalities for an effective implementation of the scheme shall not have any negative impact on existing national energy performance certification schemes and build on related initiatives at national level.'.