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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	IE comments on the revision of the Energy performance of buildings Directive (ST 12961/22)

Delegations will find in the annex the IE comments on the revision of the Energy performance of buildings Directive.

EPBD Proposal
Written observations- Ireland
3rd October 2022

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Introduction

Ireland supports in principle the ambition and the measures proposed in the current review of the EPBD. Ireland holds a reservation on amendments in this Revision 4

Ireland welcomes the reference to Technical Neutrality in the article. However In order to aid transposition and to fully comprehend the intent of Article 9(a), Ireland requests further clarity in the language used in this Article. The language in Art 9a remains ambiguous. Ireland holds a reservation on this article

Ireland is concerned that the intention to maximise the roof area used for solar Photovoltaics could lead to unintended costs and Ireland requests that a reference to “**self-consumption**” is included in Further detail on these and other articles are provided in our written comments below.

Article 5 – Setting of Minimum Energy Performance Requirements

Article 5(3)

With regard to the proposed categories of buildings that Member States may decide not to set or apply MEP requirements to ***stand-alone buildings with a total useful floor area of less than 50 m²***. From the perspective of the non-domestic building stock, this is quite a small building. Setting the TUFA at this level runs the risk of potentially bringing into scope those small, most likely unoccupied and very low energy consuming non-residential buildings where the impact of setting specific MEP requirements will be negligible. A more appropriate TUFA would be 250m², and this is in line with the proposed TUFA proposed for annual renovation of public buildings under Article 5 in the recast of the EED.

An exemption isn't listed for those buildings that require significant heat process/ energy demand to deliver their services. For example, health care buildings such as hospitals require high levels of heat to operate effectively and deliver safe quality healthcare services.

Note on Art 9(2)(a)

In principle Ireland supports the improvement in standards in existing housing stock when rented or sold.. However, it is to be anticipated that there may well be very significant practical difficulties and even potential legal problems with implementing and enforcing this measure.

It is not clear from Art 9 (2)(a) copied below if the whole of the Article is mandatory – or just the second part that commences “**while ensuring that at least those which are sold, rented or donated....at least a class D**”- or if the article is discretionary. The language is ambiguous.

2a. Member States **may choose to treat** ~~shall at least ensure that~~ single family houses on a separate basis while ensuring that at least those ~~and multi-apartment buildings with ten building units and less~~ which are sold, rented, donated or which whose purpose is changed within the cadastreland registry towards residential buildings after 1 January [202830], achieve at least energy performance class [D] or higher within [five] years after the above mentioned triggers by the acquirers buyers or owners.

Ireland requests that the wording of the Article should make clear as to whether the second part of this Article is mandatory or optional.

Separately, with regards to enforcement, when a person buys a house in 2028 they will be required to have upgraded their property to an EPC D or higher by 2033. An idea of the nature of how the Commission believes sanctions and penalties will operate would be useful. The imposition of such standards without a very carefully considered and funded programme of assistance may cause an exit from the market of certain landlords. We understand that state aid rules will apply after the introduction of this requirement. This phenomenon of landlords leaving the market is already happening in 2022 and would likely be exacerbated by an EPC requirement that was pitched at too high a level. For this reason we would recommend that this article should refer to EPC E and not EPC D as it does currently.

In relation to “donated” - Ireland is currently responding to the humanitarian crisis in Ukraine by housing refugees from that ongoing conflict. For this reason we would recommend that article 9 (5) would allow an exemption for such scenarios i.e. an exemption for properties used to house persons who are temporary protection beneficiaries.

Article 9a – Solar Energy in Buildings

In principle, Ireland supports a technology neutral approach that follows the cost optimal principle. Where Solar is proposed Ireland supports self-consumption application when setting minimum criteria where it meets EPBD cost optimal requirements.

Ireland is also concerned that the proposal to optimise solar energy potential could lead to additional costs for the construction of new buildings. Ireland’s requests that this Article be amended to provide solar panels for “self-consumption” and the term “self consumption” be inserted as follows:

“Member states shall ensure the deployment of suitable solar energy installations for self consumption:.....”

(a).....

(b).....

(c).....

In order to transpose this article and fully comprehend the intended application Ireland requests that clarifications be provided in the Directive on the following terms:

1. The Directive requires that “new buildings are designed to optimise their solar energy generation potential on the basis of the solar irradiance of the site”

There are, inter alia, road/aviation safety issues, built heritage, protected landscape matters that all have to be addressed through the planning system before a solar development can be exempted or approved. These considerations also need to be taken account of when designing buildings and Ireland suggests the wording of the Directive needs to be amended to include a reference to the need to obtain development consent, along the lines of the following:

“Member States shall, subject to the requirement to comply with any relevant development consent requirements, ensure the deployment of suitable solar energy installations: “

In addition, can the term “optimise” be explained in the Directive to aid transposition.

2. Solar Energy requirements should be coordinated with NZEB requirements which already require that the energy use for a building is met to a very significant extent by renewable resources. It is important that any requirement does not displace renewable heat technologies such as heat pumps which are already being installed in buildings under the NZEB definition.
3. For existing buildings “where technically, functionally and economically feasible” should be included to take account of existing roof structures, roof insulation, roof coverings, access and maintenance requirements
4. Ireland requests further detail in the directive to explain the terms used is needed in language to aid transposition as follows:

Par 1 - Can a definition of “solar energy generation” be provided

Par 2- “ensure the deployment”-does this mean the buildings in (a),(b) and (c) should have solar installed or does it mean that they should be solar ready. Consistency is required with the paragraph which states “**enabling the later cost-effective installation of solar technologies**”. Could “ensure the deployment” be further explained.

Par 3 - **“assessed technical and economic potential of the solar energy installations and the characteristics of the buildings “** – Can guidance be provided on what “technical and economic potential” and “characteristics” include and how they should be assessed?

With regards to Art 9a (b) The proposed text as written could result in impeding or constraining future building fabric upgrades (post 2026 and 2027). For example, should the roof insulation require maintenance or upgrading, the panels will have to be removed to allow the works to take place. In addition, not all building roof tops may be suitable for solar panels, or it may not be economically feasible to install them. Ireland requests that the provision is caveated to reflect this.

Article 10 - Renovation Passport

Article 10 (1)

This Article proposes that the Commission shall adopt a Delegated Act (DA) in accordance with Article 29 of the recast. The proposed requirements that the passport is to comply with is specifically detailed in Article 10(3). Therefore, it doesn't seem necessary to include a requirement for a DA.

Article 10(3)(b)

This Article specifies that the objective of the renovation roadmap is to transform the building into a zero-emission building by 2050 at the latest, indicating a sequence of renovation steps building upon each other, to achieve this. Achieving a ZEB level may be technically impossible and economically unfeasible for certain buildings and therefore should not be made mandatory. Ireland requests that the proposed text be revised to "where technically functionally and economically feasible" to reflect this.

Article 15 Financial incentives and market barriers

Article 15 Para 3

The paragraph seems to be missing the objective – it is about using the funding and finance efficiently, but it should explain to what purpose in the context of this Directive. Furthermore, "best cost-effective use of national co-financing and financing available" is a rather nebulous language – sometimes factors other than cost-effectiveness must take a priority, especially during an energy crisis.

Article 15 Para 5

The term 'ensure' in the sentence " Member States shall adopt measures to ensure that energy efficiency lending products for building renovations are offered widely and in a non-discriminatory manner by financial institutions and are visible and accessible to consumers." should be softened to 'encourage' or 'promote'.

This would align the wording with the approach taken in the revised EED and recognise that lenders can be asked but not forced to participate in or to offer these products.

Article 15 Para 7

While a member state can promote, support and encourage the provision of a sufficient workforce, it may not always be able to ensure it in a society based on free market. It would be more appropriate to frame the requirement in terms of putting in place the measures towards achieving that goal – amendment suggested below.

Member States shall put in place measures and financing to promote education and training to with a view to ensuring that there is a sufficient workforce with the appropriate level of skills corresponding to the needs in the building sector.

Article 16 – Paragraph 2

The proposal states *“By 31 December 2026 at the latest, the newly issued energy performance certificate shall comply with the template in Annex V. It shall specify the energy performance class of the building, on a closed scale using only letters from A to G. The letter A shall correspond to zero-emission buildings as defined in Article 2, point (2) and the letter G shall correspond to the worst-performing buildings in the national building stock at the time of the introduction of the scale”*.

The 15% is deleted from G category and it is not clear how what threshold applies to determine the worst performing buildings. Is it 15% of some other value? Also the even bandwidth distribution is removed. Further guidance on the energy performance class would be welcome.

Article 19: Databases for energy performance of buildings

Article 19 Para 2

The database shall be publicly accessible, in compliance with Union and national data protection rules. Member States shall ensure access to the “full energy performance certificate” for building owners, tenants and managers, and to financial institutions as regards the buildings in their investment portfolio.

Does the term “full energy performance certificate” mean the entire EPC record, or the 1 page EPC certificate and advisory report only?

Does the term ‘investment portfolio’ include mortgage loans?

Article 20 – Inspections

In relation to Article 20(7) the requirement for BACs in non-residential buildings for heating systems or systems for combined space heating and ventilation of over 290kW by 31 December 2024 is retrospective, as Article 14(4) of amending Directive 2018/844 required this by 31 December 2025. Ireland requests that this date should be 31st Dec 2025 to align with the previous 2018 Directive and as transposed by member states.