EXPLANATORY MEMORANDUM TO

THE BUILDING REGULATIONS ETC. (AMENDMENT) (ENGLAND) REGULATIONS 2026

2026 No. 335

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Samantha Dixon MBE MP, Parliamentary Under-Secretary of State (Minister for Building Safety, Fire and Democracy) at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Keeran Jugdoyal, Deputy Director for New Builds Standards and Performance, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Elena Lynch at the Ministry of Housing, Communities and Local Government Telephone: 07458 052 231 or email: elena.lynch@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Building Regulations etc. (Amendment) (England) Regulations 2026 ("the instrument") make amendments to the Building Regulations 2010 ("the Building Regulations") and the Building Regulations (Registered Building Control Approvers etc.) (England) Regulations 2024 ("the 2024 Regulations") to make the legislative changes needed to implement the Future Homes and Buildings Standards ("FHBS"), which is the name given to this planned update of energy efficiency requirements and Part L of the Building Regulations. The FHBS aim to improve the energy efficiency and reduce the carbon emissions of new dwellings and non-domestic buildings to ensure they are zero carbon ready.

4.2 The instrument will amend the definition of fixed building services in relation to new buildings to include lifts, escalators and moving footways (except in individual dwellings), require that where a person doing building work must provide information to the owner of a new dwelling, under regulations 39 to 40B (information about ventilation, use of fuel and power, systems for on-site electricity generation and overheating), the information must be provided in an appropriate format, amend the Building Regulations to make provision for the minimisation of greenhouse gas emissions alongside the conservation of fuel and power, and introduce a functional requirement for an on-site system of renewable electricity generation to be installed when a new dwelling or building containing a dwelling is erected (subject to some

exceptions.) The instrument also makes provision for transitional arrangements for the sector to adjust to the new standards, makes changes to some previous transitional arrangements, and makes associated changes to the 2024 Regulations and consequential changes to the Building Regulations.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 The Government is committed to achieving net zero carbon emissions by 2050. Buildings are a high contributor to carbon emissions, with the built environment being responsible for around 30% of the UK's greenhouse gas emissions.[1] 20% of the buildings that will exist in 2050 are yet to be constructed, so improving the energy efficiency of new dwellings and non-domestic buildings will play an important role in meeting this target, while also improving thermal comfort and potentially lowering energy costs for some occupiers.[2]

5.2 Every building constructed with fossil-fuel heating systems will eventually need to be retrofitted to decarbonise the built environment and help meet our target of net zero by 2050. Installing energy efficiency measures, such as low carbon heating, at the point of construction is cheaper and less disruptive for occupants than retrofitting them later.[3]

5.3 The Government has committed to improving energy efficiency standards for new dwellings and non-domestic buildings through the introduction of the FHBS. Buildings constructed to the FHBS will be zero carbon ready, meaning that they will become zero carbon without the need for further retrofit as the electricity grid decarbonises.

5.4 The Government regulates minimum energy efficiency standards for all new buildings through the performance based technical requirements in Part 6 of the Building Regulations and the functional requirements of Part L of Schedule 1 to the Building Regulations. The notional building approach is used to assess whether a building complies with relevant requirements, which aims to give developers design flexibility. Approved Document L provides statutory guidance on compliance with energy efficiency requirements.

5.5 The 'notional building' is a theoretical building that is the same size as the proposed building but with defined characteristics, such as the type of window, heating system, and thickness of insulation. The performance specification of this notional building is then used to generate the required levels of emissions and energy use for the proposed

[1] BEIS (2021), 'Final UK greenhouse gas emissions national statistics: 1990 to 2019' (https://www.gov.uk/government/statistics/final-uk-greenhouse-gas-emissions-national-statistics-1990-to-2019).
[2] Currie & Brown (2019), 'A report for the Committee on Climate Change The costs and benefits of tighter standards for new buildings' (https://www.theccc.org.uk/wp-content/uploads/2019/07/The-costs-and-benefits-of-tighter-standards-for-new-buildings-Currie-Brown-and-AECOM.pdf)
[3] Currie & Brown (2019), 'A report for the Committee on Climate Change The costs and benefits of tighter standards for new buildings', page 6, (https://www.theccc.org.uk/wp-content/uploads/2019/07/The-costs-and-benefits-of-tighter-standards-for-new-buildings-Currie-Brown-and-AECOM.pdf)

building. Using the approved calculation methodologies that set out how the energy performance of a building should be calculated, the actual energy performance of the proposed building is calculated and compared to the required performance generated by the notional building. Thus, every building does not have to be built exactly to this specification or use the same combination of technologies, but it must meet or exceed the performance outcomes of the notional building.

5.6 The notional building for new dwellings in the FHBS includes high building fabric standards with enhanced airtightness, a high-efficiency air-source heat pump or connection to a heat network, a wastewater heat recovery system for dwellings above one storey, and a decentralised mechanical extract ventilation system. There will also be a separate functional requirement for dwellings to have a system for on-site renewable electricity generation, subject to some exceptions.

5.7 The notional building for non-domestic buildings in the FHBS varies slightly depending on whether they are classified as 'top-lit' or 'side-lit.' Top-lit buildings are those that have daylight illumination from above via skylights, such as many warehouses and sports halls. Side-lit buildings are those that have daylight illumination from windows, such as many hospitals, schools, and offices.

5.8 Both top-lit and side-lit notional building specifications include high fabric standards, enhanced lighting efficacy, enhanced heat recovery efficiency, and solar panel roof coverage equivalent to 40% of the ground floor area. The notional building specification includes radiant electric heating in top-lit buildings, whereas it includes a heat pump in side-lit buildings.

5.9 The practical effect of these measures is that all new buildings constructed to the FHBS will have good fabric standards and low-carbon heating systems. They will also often include on-site renewable electricity generation, unless any of the limited exceptions apply. The standard will effectively preclude the installation of fossil fuel heating systems and achieve a 75% reduction in operational carbon emissions, compared to the performance of buildings constructed to the version of energy efficiency standards in the Building Regulations that was implemented in 2013.

5.10 The Future Homes and Buildings Standards are being delivered through the changes in the instrument, outlined in further detail below, changes to the associated Approved Documents, and changes to the approved calculation methodologies.

What was the previous policy, how is this different?

5.11 A two-stage approach to implementation of the FHBS was adopted, with an uplift to energy efficiency requirements in the Building Regulations and to Part L of Schedule 1 to the Building Regulations, in 2021 ("the 2021 uplift") providing a meaningful but achievable interim increase in standards for buildings, ahead of the full standard being published. The 2021 uplift aimed to build knowledge and increase sector preparedness before the introduction of the full FHBS and raised energy efficiency requirements for new homes and new non-domestic buildings to achieve this. The 2021 uplift delivered a ~30% decrease in the carbon emissions of new homes relative to the 2013 version of energy efficiency requirements and Part L.

Amending the definition of fixed building services

5.12 The current definition of "fixed building services" in regulation 2 of the Building Regulations covers systems such as heating, hot water, ventilation, cooling and lighting, but does not extend to lifts, escalators and moving footways.

5.13 As such, the energy efficiency, commissioning, and associated information requirements that apply to fixed building services do not apply to them. As a result, Approved Document L does not include guidance on minimum standards and commissioning requirements for these technologies, nor are they included in the calculation of the energy performance of the building they are within. This undermines the accuracy of current energy performance calculations and does not serve as an incentive for developers to install energy efficient lifts, escalators, and moving footways.

5.14 The instrument will amend the definition of "fixed building services" in Regulation 2 of the Building Regulations to include lifts, escalators, and moving footways, in relation to new buildings. This does not apply to individual dwellings, but will apply to the communal areas of buildings that contain multiple dwellings (e.g. a block of flats), mixed-use buildings, and non-domestic buildings. This means the minimum energy efficiency, commissioning and associated information requirements will now apply to these services in the same way as for other fixed building services, supporting improved operational efficiency of these systems.

Provision of information to homeowners about new dwellings

5.15 Under regulations 39 to 40B of the Building Regulations, housebuilders must give adequate information about ventilation systems, fixed building services, systems to prevent overheating (where applicable) and systems for on-site electricity generation (where applicable) in new homes (including homes constructed through conversion) to new homeowners. The Approved Documents set out that this information should include a Home User Guide (HUG) which sets out non-technical advice on how to operate and maintain these systems in a healthy and energy efficient manner.

5.16 Several studies have indicated that the measured energy performance of homes in occupation can be worse than the expected energy efficiency calculated at the design stage: this is known as the 'performance gap.'[4] Incorrectly operating some features of new build homes has been identified as a cause of this performance gap and often results in unnecessary increases in energy bills. Incorrect operation of new build homes can also be detrimental to occupier health and comfort.

5.17 The instrument introduces a requirement for information required under regulations 39 to 40B to be provided to homeowners in an appropriate format. Guidance on what constitutes an appropriate format is outlined in Approved Document L. This adjustment aims to enhance the overall accessibility of information for homeowners and reduce instances of incorrect operation. The Regulations will also make a consequential change to the Building Regulations (Registered Building Control Approvers etc.) (England) Regulations 2024 to reflect the introduction of this new requirement.

Provision for reducing greenhouse gas emissions

5.18 Currently, Part L1 of Schedule 1 to the Building Regulations requires reasonable provision to be made for the conservation of fuel and power in buildings (domestic and non-domestic.) Energy efficiency of buildings has an important role to play in reducing greenhouse gas emissions and achieving the Government's target of net zero by 2050.

[4] Palmer, J., Godoy-Shimizu, D., Tilson, A. & Mawditt, I., 2016. Building Performance Evaluation Programme: Findings from domestic projects, https://www.ukri.org/publications/low-carbon-homes-best-strategies-and-pitfalls/

5.19 To date, measures which have sought to conserve fuel and power have, by extension, also served to reduce operational carbon emissions. However, as the electricity grid decarbonises, there may arise instances in the future where measures that aim to reduce greenhouse gas emissions from a building do not necessarily serve to also conserve fuel and power.

5.20 As such, the instrument will amend Part L1 of Schedule 1 to make specific provision for reducing greenhouse gas emissions alongside conservation of fuel and power, thereby better representing these dual goals of the Government. In practice, this change will have no immediate material impact on standards for new and existing buildings (which already serve to reduce greenhouse gas emissions). However, it will provide a legal basis for future standards for which the primary focus is the reduction of carbon emissions from buildings, as opposed to solely reducing energy use. The instrument will also amend the title to Part L and make consequential amendments to other provisions to reflect these changes.

Functional requirement for renewable electricity generation in new dwellings

5.21 In the 2021 uplift to energy efficiency requirements, the notional building for newly erected dwellings was set such that most new homes would likely either have a gas boiler and solar panels, or a low carbon heating system installed. Solar panels are an important part of the Government's strategy to get to net zero via a decarbonised energy grid and offer benefits to occupiers in the form of lower bills. As such, the FHBS aims to ensure all new homes are built with both solar panels and low carbon heating systems.

5.22 To achieve this, the FHBS consultation outlined initial proposals for newly erected homes to include solar panel roof coverage equivalent to 40% of the ground-floor area in the notional building specification. It was highlighted in responses that this level of solar coverage would be unachievable in a number of circumstances, including a series of common roof designs. While the notional building approach would ordinarily allow developers to meet energy efficiency performance requirements in another way, the contribution of solar panels was so significant in meeting the proposed performance requirements that they would be challenging to achieve via any other means. In this situation, the only route to compliance for these housebuilders would be to seek exemption from meeting part of the performance requirements or be forced through a costly and disruptive redesign. As such, this proposal would likely have generated a substantial increase in relaxation requests to local authorities, potentially introduced a housing delivery bottleneck, and could have, perversely, run counter to the policy aim and led to a decrease in the quantity of solar panels being installed.

5.23 Instead, the instrument introduces a functional requirement for a system for renewable electricity generation to be installed on or within the bounds of the curtilage of a newly erected dwelling or building containing one or more dwellings. This system must be designed to enable generated electricity to be available for the use of residents of the dwelling(s) and must be capable of generating a reasonable output given the design of the building and its surrounds, with further explanation of what is considered to be a reasonable output given in Approved Document L. In most developments, it is expected that this system will be rooftop solar panels. In practice, this approach means that, in most cases, some solar panels will still need to be installed on houses that cannot accommodate a high level of coverage, while also granting developers greater flexibility in meeting the requirement for on-site renewable electricity generation. Where it is not possible to install a system for

renewable electricity generation on the roof of the relevant building that is capable of generating a reasonable output, the functional requirement will not apply.

5.24 Tall residential buildings often have limited roof space proportionate to the overall size of the building, with the little space available needed for large equipment such as communal heating system components. In recognition of this, the instrument exempts 'relevant buildings' from the functional requirement for on-site renewable electricity generation. A 'relevant building' is defined as one which is at least 18m in height and contains one or more dwellings, an institution or a room used for a residential purpose. To reduce administrative burden and ensure parity across the Building Regulations, the non-domestic areas of such buildings will also not include solar panels as part of the minimum energy efficiency standards. This exemption is delivered through the National Calculation Methodology rather than the instrument.

5.25 A 'microgrid' is a small-scale power grid that can operate independently to provide electricity to a specified area. These are often used in buildings like hospitals or universities for energy resilience, but can also be used for developments including dwellings. Currently, housebuilders can choose to use a microgrid for a given development, as opposed to installing renewable electricity generation on individual buildings. To ensure this remains a viable alternative approach, the instrument will exempt dwellings from the functional requirement where they receive a direct supply of electricity from a system for renewable electricity generation that is installed outside the bounds of its curtilage (e.g. a microgrid), provided that this system generates an output equivalent to that which would have been provided by an installation on the dwelling or within its curtilage (e.g. on-roof solar panels), which is designed to enable generated electricity to be available for the use of residents of the dwelling(s).

5.26 With regard to oversight and enforcement of new requirements, building control bodies have a general duty to see that building work complies with the applicable requirements in the Building Regulations. This might be a local authority building control service or a private building control service, or, in relation to higher-risk buildings, the Building Safety Regulator.

5.27 Alternatively, a tradesperson registered with a Competent Person Scheme (CPS) in relation to a particular type of building work can certify that their work is compliant with Building Regulations (for example, installation of an on-site electricity generation system). In order to be registered with a CPS, tradespeople must have demonstrated competence in carrying out work in compliance with Building Regulations.

5.28 Ensuring that building work complies with all applicable requirements of the Building Regulations is the responsibility of those carrying out the work, for example, agents, designers, builders, installers and the building owner. Local Authorities and, in relation to higher-risk buildings, the Building Safety Regulator, have enforcement powers they can use if work does not comply with the Building Regulations.

Transitional Arrangements

5.29 When the Building Regulations have been updated in the past, provision has been made for transitional arrangements, which allow for buildings to be constructed to the previous standards, subject to certain conditions. These arrangements give the construction sector time to adjust to the new regulations and provide regulatory clarity for sites that are currently under development as the changes are introduced.

5.30 The instrument makes provision for two main types of transitional arrangements: a standard approach for most dwellings and non-domestic buildings, and a different approach for higher-risk buildings ("HRBs"). The standard approach allows for buildings to be built to current energy efficiency requirements if a building notice, initial notice or full plans application is submitted within 12 months of the instrument being laid for building work that is not HRB work or work to an existing HRB. Developers will then have a further 12 months from the coming into force date to commence construction on the building, as per the definition of commencement in Regulation 46A(2) to (5) of the Building Regulations, which sets out different tests depending on the type of work – e.g. whether or not the work consists of the construction of a complex building, a horizontal extension, or other building work.

5.31 HRBs are defined as buildings that are at least 18m in height or have at least 7 stories, contain at least 2 residential units, or are a care home or hospital. HRBs go through a more rigorous building control process, called the Gateway process, to enhance building safety and which generally takes longer than standard procedures. The complexity and length of the Gateway process means that the standard transitional arrangements would not be suitable for HRBs. Instead, the instrument sets out bespoke transitional arrangements for these buildings.

5.32 The instrument allows for HRB work or work to an existing HRB on a particular building to be completed to current energy efficiency requirements, if a valid building control approval application for the work (known as a Gateway 2 application) is submitted within 18 months of the instrument being laid. That application must ultimately be successful, though the decision to grant the application can be made after the 18-month period ends and includes where the application has been granted subject to conditions. Where the successful application relates to a stage of HRB work, any subsequent stage can also be built to the current requirements.

5.33 Unlike the standard transitional arrangements, there is not an additional deadline for commencing work to HRBs, as existing legislation already requires construction to 'commence' (as defined in the Building Regulations) on one or more buildings subject to a building control application within 3 years of the application being received.

5.34 Transitional arrangements will also apply in relation to certain ongoing cases which were subject to transitional arrangements under Schedule 3 to the Building (Higher-Risk Buildings Procedure) Regulations 2023 and in relation to building work on a particular building where transitional arrangements in regulation 17(1)(b) of the Building Regulations etc. (Amendment) (England) Regulations 2021 (the 2021 uplift regulations) apply. Where these transitional arrangements apply, building work will not need to comply with the new standards.

Sunsetting previous transitional arrangements

5.35 The 2021 uplift regulations included two transitional arrangements. One provided that where relevant documentation had been submitted in relation to a building before 15 June 2022 and work had started on that building before 15 June 2023, the 2021 uplift regulations would not apply to work on the building. Such buildings could therefore continue to be built to 2013 energy efficiency requirements.

5.36 The other transitional arrangement provided that the 2021 uplift regulations would not apply to buildings which were covered by transitional arrangements made in the Building Regulations &c. (Amendment) (No.2) Regulations 2013 (the 2013 Regulations). The 2013 transitional arrangements applied on a site-wide basis: provided work was started on one building, in accordance with the transitional

arrangements, then any other building on the site covered by the documents could continue to be built to the outdated 2010 energy efficiency requirements.

5.37 In practice, Energy Performance Certificate (EPC) lodgement data from recent completions indicates that the number of dwellings actually being built out to 2010 energy efficiency requirements is likely to be quite low. However, consumers have a reasonable expectation that where construction on a newbuild home starts after the introduction of the FHBS, it would be built to more modern standards of energy performance. Additionally, any buildings built to the 2010 energy efficiency standards would not be zero-carbon ready and would, therefore, add to the eventual retrofit burden for Government to meet its legal obligation of achieving net zero by 2050.

5.38 As such, the instrument will revoke the 2013 transition arrangements and the relevant parts of the 2021 transitional arrangements which allow developers to continue building to the 2010 standards. Individual buildings will only be able to continue being built to 2010 energy efficiency requirements where work has started on the building before 24 March 2028. These changes will not apply to HRB work and work to an existing HRB.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument amends regulation 2 (interpretation), Part 8 (which deals with the provision of information by persons carrying out work) and Part L (conservation of fuel and power) of Schedule 1 (requirements relating to buildings) to the Building Regulations. It also makes consequential amendments to the Building Regulations and associated amendments to the Building (Registered Building Control Approvers etc.) (England) Regulations 2024. These amendments are made under powers contained in the Building Act 1984. The Building Regulations are supported by Approved Documents, approved and issued under section 6 of the Building Act 1984, which set out detailed practical guidance on compliance. Those documents are being updated alongside these legislative changes.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes – the Building Regulations currently make provision in relation to the energy efficiency of buildings. It is necessary to amend the Building Regulations and the 2024 Regulations to give effect to the legislative changes needed to implement the FHBS. The Building Regulations cover a wide range of matters, besides energy efficiency. The changes to the Building Regulations are not extensive. The change to the 2024 Regulations is minor. It is not therefore appropriate to remake the Building Regulations or the 2024 Regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government held an online public consultation for a period of 15 weeks, launching December 2023 and concluding in March 2024. The consultation set out technical proposals for the full Future Homes and Buildings Standards, including changes to the Building Regulations, the accompanying Approved Document guidance, and calculation methods.

7.2 There was a high level of engagement with the consultation, having received over 2,400 responses from a variety of organisations, representative and trade bodies, industry professionals, academics and individuals. The Government response to the consultation was published when the instrument was laid and can be found online.[5]

7.3 Consultation responses were positive about the overarching aims of the policy in increasing energy efficiency standards for new dwellings and non-domestic buildings. There was a mixture of views on the level of ambition of the proposals, the level of industry readiness, and the potential capital costs associated with the changes.

7.4 A majority of respondents supported proposals relating to the provision of HUGs in digital and physical formats, making provision for reducing carbon emissions, expanding the definition of fixed building services, and sunsetting previous transitional arrangements.

7.5 The introduction of a functional requirement to install a system for renewable electricity generation was not specifically included in the consultation, as this approach was developed based on the feedback on our initial proposals and following engagement with industry stakeholders. However, nearly 97% of respondents supported proposals to include solar panels in the Future Homes Standard, with a significant minority raising concerns that the proposed approach may be undeliverable in certain circumstances and could cause an increase in the number of exemption requests as a result. The new approach serves to deliver the level of solar coverage that was endorsed by respondents, while providing a route to compliance in situations where that is genuinely not practicable.

7.6 The majority of respondents supported shorter transitional arrangements than are outlined in the instrument. Respondents who favoured a shorter period cited concerns about the number of homes that would continue to be built to outdated standards. Other respondents highlighted supply chain readiness, the potential negative impact on small and medium-sized developers, and potential installer shortages as challenges presented by a shorter transitional period. While the Government understands the urgency of constructing zero-carbon ready buildings, the longer transitional period is being used to ensure a smoother transition to the FHBS and give the sector an appropriate period to adjust.

8. Applicable Guidance

8.1 The Approved Documents provide statutory guidance on how to meet the requirements of the Building Regulations. New versions of the Approved Documents L1, L2, and F1 have been produced and are available online.[6]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 The FHBS is comprised of a suite of legislative and non-legislative changes. For simplicity, the impact of these changes has been assessed holistically, therefore, the

[5] The response to the Future Homes and Buildings Standards consultation is available at: https://www.gov.uk/government/consultations/the-future-homes-and-buildings-standards-2023-consultation

[6] The new versions of Approved Document L1 and L2 are available at: https://www.gov.uk/government/publications/approved-document-l-2026; The new version of Approved Document F1 is available at: https://www.gov.uk/government/publications/approved-document-f-2026.

figures provided below are not solely as a result of the changes outlined in the instrument.

9.2 The FHBS affects dwellings and non-domestic buildings, with different standards across both. As such, two impact assessments have been conducted, one focusing on the changes to dwellings and the other focusing on the changes to non-domestic buildings. The full impact assessments can be found online.[7]

Impact on businesses, charities and voluntary bodies

9.3 The impact on business of the FHBS suite of legislative and non-legislative changes relating to energy performance for new and existing dwellings is an increase in costs of £709.3m per year over a ten-year period. Most of this cost will be additional capital costs, though it also includes costs associated with familiarisation to the new regulations. These costs will primarily be incurred by private developers, with 20% incurred by housing associations, and 18% incurred by private rented sector ("PRS") landlords. Private developers may pass these costs onto owners in the form of higher house prices in the longer-term and PRS landlords may pass on some or all of these additional costs to occupiers in the form of higher rents. For housing associations, businesses are unlikely to be able to pass on these costs to occupiers, as rents in the social rented sector are set by the Government.

9.4 The impact of the changes relating to energy performance for new and existing non-domestic buildings is an increase in costs of £52.5m per year over a ten-year period. Most of this cost will be additional capital costs incurred by developers, though it also includes costs associated with familiarisation to the new regulations.

9.5 There are no direct monetised benefits for businesses, as any associated energy savings as a result of these changes would be experienced by the occupants, while the reduced carbon emissions are of benefit to wider society.

9.6 For most charities and voluntary bodies there will be no significant impact. However, in cases where a charity or voluntary body is engaged in constructing a new building, they will bear any additional capital cost and benefit from any reduction in fuel bills associated with these changes.

9.7 The legislation does impact small or micro businesses.

9.8 To minimise the impact of the requirements on small or micro businesses (employing less than 50 people), the Government will continue to proactively engage with industry as the new standards are introduced, including representatives of small and micro businesses (SMBs). To support SMBs with the transition, the Government is giving the sector a full year before the regulatory changes and accompanying statutory guidance, including the full technical specifications, come into force (and a further 6 months in relation to HRB work and work to existing HRBs) to allow sufficient time for the sector, particularly SMBs, to review and adjust to the new standards. Transitional arrangements are also being put in place as outlined above.

9.9 Following the 2021 uplift, the industry-led Future Homes Hub was a key tool in supporting SMBs to understand and meet the new regulations. With support and input of government (MHCLG, DESNZ and DEFRA) the Hub supported industry by coordinating pilot developments and prototypes, identifying technical and operational solutions, carrying out research and analysis into delivery challenges, and producing technical guidance. The Hub also produced specialist guidance which focused on the

[7] The Impact Assessments for the Future Homes and Buildings Standards are available at: https://www.gov.uk/government/publications/the-future-homes-and-buildings-standards-impact-assessments

practical ways in which SMBs could meet the regulations. For the introduction of the FHBS, Government will look to continue to support the Hub's work, both in engaging with industry and supporting SMBs in transitioning to the new standards.

9.10 SMBs make up ~99% of the number of businesses engaged in the domestic and non-domestic construction industry.[8] An exemption for SMBs is without precedent in previous updates to energy efficiency requirements and Part L and there is not a clear mechanism for exempting these businesses that would prevent exploitation from larger developers. Under a blanket exemption for homes developed by businesses with fewer than 50 employees, for example, larger developers could qualify for exemption by setting up separate smaller legal entities which had fewer than 50 employees. Tackling this or using another method of exemption based on the number of dwellings per site, would increase burdens on building control bodies and require significant new resource and funding to facilitate adequate enforcement. As well as this, an exemption would create a permanent and confusing two-tier energy efficiency market of new dwellings for occupants, and a permanent stock of new dwellings requiring later, much more expensive, retrofitting in order to achieve net zero. As such, exempting SMBs from these regulatory changes would likely prevent the overarching policy objectives and carbon savings from being achieved.

9.11 The impact on the public sector is that all buildings, including public sector buildings, must adhere to the Building Regulations unless specifically exempted. In the case of publicly owned buildings, the relevant local or national government would bear any additional capital cost incurred due to these changes, however, they will also benefit from any associated energy bill savings.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There will be a phased approach to monitoring this legislation, beginning with the development of a monitoring and evaluation plan based on the Theory of Change outlined in Section 4 of the Impact Assessment. Currently, EPC lodgement data is used by MHCLG to monitor the implementation of the 2021 uplift to Part L, especially whether buildings have specific technologies such as heat pumps or solar panels installed. It is anticipated that this EPC lodgement data and stakeholder engagement will be used in much of the earlier monitoring of the implementation of the FHBS.

10.2 As several of the impacts and outcomes of the FHBS are long-term, we expect further evaluation to continue beyond the initial Post Implementation Review required by the instrument.

10.3 A statutory review clause is included in the instrument.

[8] Ministry of Housing, Communities, & Local Government, "Final Stage Impact Assessment: Future Homes Standard", page 60, (https://www.gov.uk/government/publications/the-future-homes-and-buildings-standards-impact-assessments); Ministry of Housing, Communities & Local Government, "Final Stage Impact Assessment: Future Buildings Standard", page 66 (https://www.gov.uk/government/publications/the-future-homes-and-buildings-standards-impact-assessments)

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").