

STATUTORY INSTRUMENT

**S.I. No. 346 of 2006**

**EUROPEAN COMMUNITIES (INSPECTION AND ASSESSMENT OF CERTAIN  
AIR-CONDITIONING SYSTEMS) REGULATIONS 2006.**

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I, Noel Dempsey, Minister for Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002<sup>1</sup> in so far as it relates to the inspection and assessment of certain air-conditioning systems, hereby make the following regulations:

**Citation and commencement.**

1. (1) These Regulations may be cited as the European Communities (Inspection and Assessment of certain Air-Conditioning Systems) Regulations 2006.

(2) These Regulations (other than Regulation 4) come into operation on 1 January 2007. Regulation 4 comes into operation on 1 January 2008.

**Interpretation.**

2. (1) In these Regulations -

“assessment” means assessment in accordance with the manual, of air-conditioning efficiency and sizing, compared with the cooling requirement of the building concerned;

“authorised body” means a person appointed under Regulation 5;

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<sup>1</sup> OJ No. L1/65, 4.1.2003, p.65 to 71

“Directive” means Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002<sup>1</sup>;

“manual” means the manual published or approved of by the Minister for Communications, Marine and Natural Resources which specifies the scope, nature and frequency of inspections and assessments of air-conditioning systems under these Regulations, as may be revised from time to time;

“Minister” means the Minister for Communications, Marine and Natural Resources;

“owner” means owner of an air-conditioning system to which these Regulations apply;

“registered assessor” means a person so registered under Regulation 6;

“registered inspector” means a person so registered under Regulation 6.

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

### **Application.**

3. These Regulations apply to an air-conditioning system with an effective rated output of more than 12kW. In order to establish whether or not that threshold is exceeded in the

case of a building with an air-conditioning system comprising more than one unit, the effective rated output of those units shall be aggregated.

**Obligations of system owner.**

4. (1) The owner shall ensure that the system -
  - (a) is -
    - (i) inspected by a registered inspector, and
    - (ii) assessed by a registered assessor,

as and when required by the manual, and
  - (b) is maintained, serviced or adapted in accordance with the manual or as otherwise specified by a registered inspector or registered assessor,

in order to ensure efficient energy usage by the system.
- (2) The owner shall notify the authorised body without delay -
  - (a) of any significant occurrence affecting the building or system concerned which could worsen the energy usage by the system, or

- (b) of any significant modification to, or of any replacement of the system, in order to allow the authorised body to update the register maintained under Regulation 5(3) in relation to the system.

**Authorised body.**

5. (1) The Minister shall appoint one or more than one person he or she considers to be suitably qualified to be an authorised body for the purposes of these Regulations.

(2) An appointment under paragraph (1) -

(a) may be -

(i) for a specified period (subject to re-appointment, if the body is likely to continue to perform its functions properly and efficiently and if the Minister sees fit to do so), and

(ii) subject to such conditions (if any) as the Minister may specify from time to time, to ensure the proper, efficient working of the body,

and

(b) shall be revoked at any time if the Minister considers that the body is unable to perform its functions properly and efficiently.

(3) An authorised body shall establish, maintain and publish as it sees fit a register of air-conditioning systems in use in the State. If there are two or more authorised bodies at any time, they shall cooperate with each other in maintaining and publishing a single register for the State.

(4) An authorised body shall give to the Minister such information relating to the performance of its functions as the Minister may request, provided that such information would not, in the opinion of the body, be prejudicial to the performance of its functions.

**Registered inspectors and assessors.**

6. (1) An authorised body shall appoint persons it considers to be suitably qualified to be -

(a) registered inspectors, or

(b) registered assessors,

for the purposes of these Regulations and shall establish, maintain and publish as it sees fit, a register of all such appointments. The initial appointment in each case shall be for a period of 2 years, subject to renewal in accordance with paragraph (3) if the person is likely to continue to perform his or her functions properly and efficiently and the authorised body sees fit.

(2) To be eligible for appointment under paragraph (1), a person shall satisfy the educational, training and experience requirements specified by the authorised body and submit a completed application form accompanied by the application fee.

(3) Renewal of appointment under paragraph (1) shall be subject to such additional educational or training requirements as the authorised body concerned may specify and the submission of a completed renewal application form accompanied by the renewal application fee.

(4) A registered inspector or registered assessor shall be provided by the authorised body appointing him or her with a certificate of registration which, if requested by an owner of the air conditioning system concerned, shall be presented to the owner for inspection.

(5) A registered inspector or registered assessor shall give to -

(a) the owner, a copy of the inspection or assessment report on the air-conditioning system concerned, and

(b) the authorised body, all inspection or assessment reports and such of the reports as the authorised body requires in relation to the exercise by the person of his or her functions under the Regulations.

(6) A person whose registration has lapsed or has been cancelled shall not present himself or herself as a registered inspector or a registered assessor unless and until he or she is registered again by an authorised body.

(7) An authorised body shall cancel the appointment of a person it has appointed as a registered inspector or registered assessor, if the person -

- (a) in the opinion of the authorised body, ceases to be capable of performing his or her functions properly and efficiently, or
- (b) commits, or aids and abets the committing, of an offence under these Regulations.

(8) A cancellation under paragraph (8) shall be notified to the person concerned in writing and shall state the reasons for the cancellation and inform the person of the appeal procedure under paragraph (9).

(9) A person whose registration has been cancelled under paragraph (7) may, within 14 days of the date of notification of the cancellation, appeal to the judge of the District Court within whose district the person normally carries out inspections or assessments, as the case may be, for the purposes of these Regulations against the cancellation. The Court may confirm or withdraw the cancellation and the authorised body concerned shall annotate the registry maintained under paragraph (1) accordingly.

**Fees.**

7. (1) An authorised body may, with the consent of the Minister, specify the fees chargeable for -

- (a) the inspection or assessment of an air-conditioning system, and
- (b) the registration or renewal of registration of a registered inspector or a registered assessor,

which do not exceed the cost to the authorised body, a registered inspector or registered assessor, of performing the function concerned.

(2) Any fees due under paragraph (1) in relation to an inspection or assessment may be recovered as a simple contract debt in any court of competent jurisdiction.

**Offences and penalties.**

8. (1) A person who -

- (a) contravenes Regulation 4 or 6(6),
- (b) obstructs a registered inspector or registered assessor in performing his or her functions under these Regulations,

- (c) not being such, purports to be a registered inspector or registered assessor,
  
- (d) in -
  - (i) making application for registration under Regulation 6, or
  
  - (ii) purporting to give information to a registered inspector or a registered assessor for the performance of his or her functions under these Regulations -
    - (I) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or
  
    - (II) fails to disclose a material particular,

commits an offence.

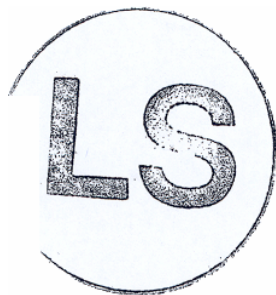
(2) Where an offence under this Regulation is committed by a body corporate, or by an unincorporated body of persons, or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of such body) such other

person as well as the body, or the person so purporting to act on behalf of the body, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) A person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding €5,000.

**Prosecution of offences.**

9. Proceedings for an offence under Regulation 8 may be brought and prosecuted by the Minister.



GIVEN under my Official Seal,

29 June, 2006.

Noel Dempsey

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Minister for Communications,

Marine and Natural Resources.

## **EXPLANATORY NOTE**

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

These Regulations give effect to the specific requirement of Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 for inspection and assessment of buildings air-conditioning systems with an effective rated output of more than 12 kW. Systems owners must have these systems formally and independently inspected and assessed in accordance with the official manual published or approved by the Department of Communications, Marine and Natural Resources, as may be revised from time to time, with a view to ensuring efficient energy management usage by such systems.