

Are you compliant?

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Written by Ulrika Wising

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So December 5th 2015 has now passed, the date by which businesses all across Europe must comply with Article 8 of the EU Energy Efficiency Directive 2012/27/EU (also known as ‘Article 8’).

In short, for businesses with either at least 250 employees, or annual revenues of €50 million and an annual balance sheet of €43 million, the crunch date has arrived. And in every European Union member state where your business has operations, you must comply.

So are you compliant? And if not, how concerned should you be about the consequences of that non-compliance?

Because the consequences of non-compliance aren’t pleasant. In the UK, for instance, the result could be a fairly hefty £50,000 fine. In France, to offer another example, the penalty for non-compliance is even steeper, amounting to 2-4% of a company’s sales revenues.

But the good news is that some businesses won’t have to worry— for two distinct reasons.

Wiggle room

First, a number of countries have indicated that they will be flexible in their approach to enforcing compliance.

Throughout Europe there is a shortage of qualified Article 8 auditors, and several countries have recognised that it is unreasonable to expect full compliance in such circumstances. Other countries, too, have hinted that the timetable for compliance was perhaps too ambitious.

And so, across Europe, a patchwork of national extensions—formal and informal—has come into being. And in certain other countries, while no formal or informal extension is in place, officials have indicated that non-compliance won’t immediately be pursued with vigour.

Overall, at least nine countries have announced some sort of flexibility or extension. But either way, in the majority of cases, compliance officials’ tolerance can’t be relied upon beyond the first three months of 2016.

Legislation awaited

Elsewhere, companies have another reason for not overly worrying about Energy Efficiency Directive compliance. And that’s because a number of countries have yet to incorporate the Directive within their own legislative frameworks.


And in these countries, companies can hardly be prosecuted for non-compliance with a law that doesn’t yet exist, or for which compliance guidelines have yet to be published.

That said, some countries are closer to closing the gap than others. Cyprus, for instance, is expected to have a law in place by the end of 2015, although the applicable compliance date is not yet known. In Spain, Poland and Greece, the legislative timetable is less certain.

Action checklist

So where best to focus your compliance efforts? Here at DNV GL, we see several clear priorities.

First, a number of countries—around a third of EU member states, in fact—have published legislation and guidance, and haven’t said anything at all about extensions or flexibility in compliance enforcement. In other words, the deadline of December 5th 2015 still applies.



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So if you still aren't compliant in these countries—a list which includes such economies as Austria, the Czech Republic, Italy, and Portugal—then focus here first.

Second, prioritize those countries where officials have indicated that there are extensions, or there will be flexibility in enforcement. That list includes countries such as Germany, the Netherlands, the UK, and Denmark.

And third, keep a close eye on those countries where legislation still has to be passed, or guidelines published. No one can know for sure, but it is likely that when compliance is required, the associated timetables will be quite tight.

We can help

In short, if you're not yet compliant, there's still time to avoid the financial penalties and reputational damage that enforcement could bring.

So we'd suggest speaking to us, to see how we can help. Simply pick up the phone, or e-mail us. We're only too happy to talk.
