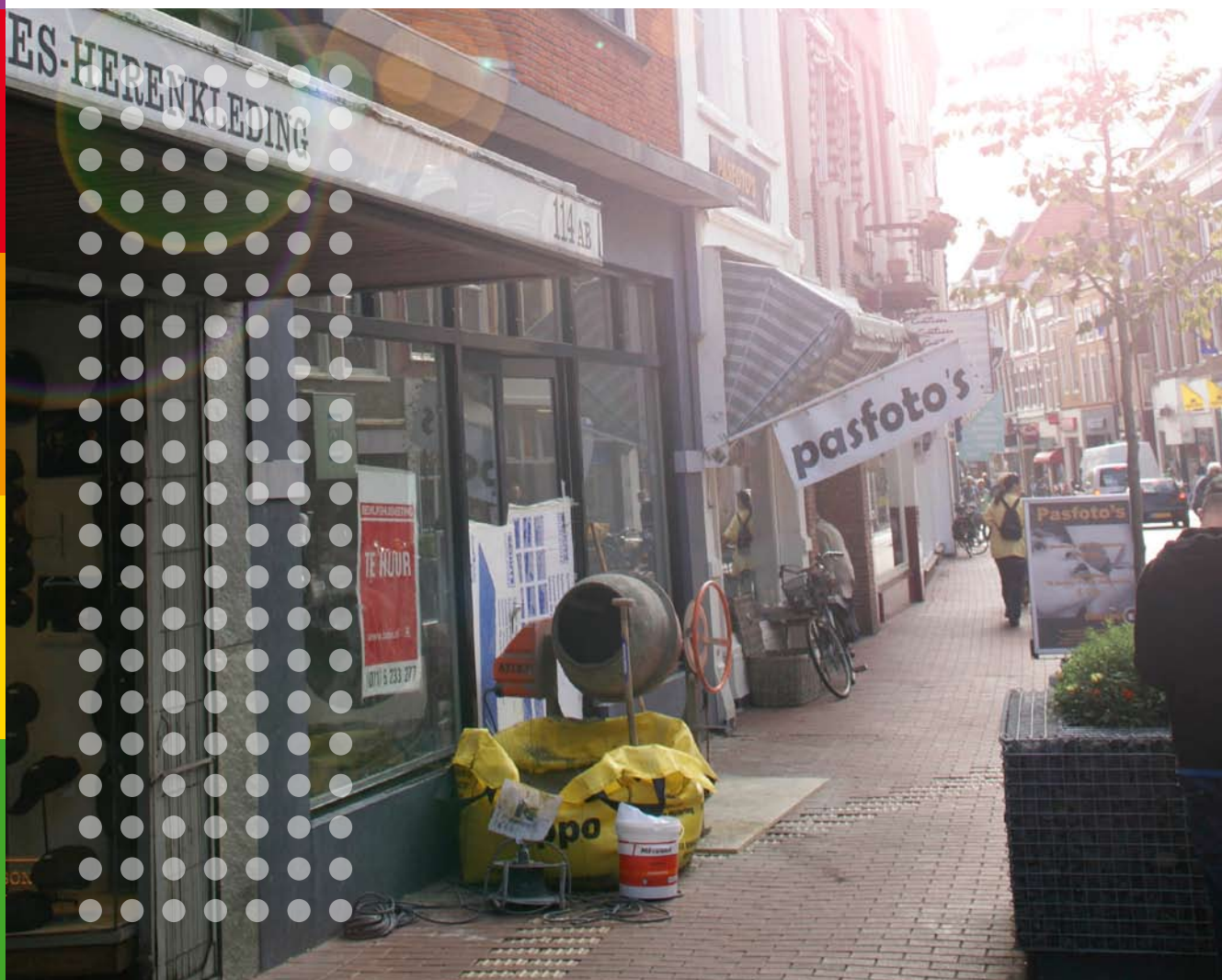


Position Paper **Detailhandel Nederland**  
(Dutch Retail Association) on the

# **Energy Performance of Buildings Directive (Recast)**



# General changes foreseen in the recast

In its commitment to combat greenhouse gasses, promote the use of renewable energy and decrease the overall energy consumption, as stated in its climate and energy package, the European Commission is exploring new ways to further these aims.<sup>1</sup>

One of these ways is by strengthening the existing Directive on the Energy Performance of Buildings (2002/91/EG) by proposing a recast.

As of now, European regulations regarding the energy performance of buildings only apply to buildings with a surface area of more than 1000 square meters. In the recast the Commission proposes to cut this threshold, thus extending the scope of the directive drastically. Where the regulation at the moment applies to only 28% of all buildings, the new regulation

will apply to all buildings. Meaning that every single retailer will have to deal with the regulation, now or in the imminent future. The recast was adopted by the Commission on the 13th of November, 2008.

Detailhandel Nederland acknowledges the efforts undertaken by the European Commission to combat climate change. However, the text does contain several provisions that are of high concern to the Dutch retailers.

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## Main elements of the proposal

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### Minimum standards energy performance

- Aside from cutting the 1000m<sup>2</sup> threshold, the Commission obliges the Member States to set minimum requirements regarding the Energy Performance of Buildings, covering energy needs for space and hot water heating, cooling, ventilation and lighting. The Commission leaves the Member States the freedom to determine these standards by themselves.

However, by doing so, the Commission, being aware of the ambition of most environment ministers, consciously creates a strong incentive for these people to raise the minimum standards to the highest possible level.

- The aforementioned minimum requirements come into force once a building is renovated for 25% of its value (actuarial value) or if the renovation affects 25% of the shell of the building.

### Energy performance certificate

- When a building is constructed, sold, rented or renovated (with regard to the conditions mentioned in the previous paragraph) a certificate will be issued. The certificate will display the current energy performance of the building and make recommendations on how to improve its energy performance.
- In buildings with a surface area of more than 250 m<sup>2</sup>, frequently visited by the public (i.e. stores), the aforementioned certificate must be displayed on a place clearly visible to the public.

### Buildings with low to zero primary energy consumption

- Member States are to make national plans regarding the minimum percentage of energy-neutral buildings, as part of the total number of new buildings.

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<sup>1</sup> PB L 1 van 4.1.2003, blz. 65-71.

# Position Dutch Retail Association, Detailhandel Nederland on the recast

First of all, Detailhandel Nederland wants to emphasize that the vast majority of Dutch retailers rent their buildings. When retailers do so, their buildings are often incomplete on the moment they rent them. Commonly, a retailer just rents walls and a roof, after which he takes care of the façade of the building (i.e. the showcase) and the systems for lighting and climate control. This creates fundamental ambiguities with regard to the Directive and its implementation. Detailhandel Nederland would like to see this cleared up. For example, following the proposal, any building that is rented should possess an energy performance

certificate. This raises the question how one could issue such a certificate for a building that is incomplete and therefore likely very energy-inefficient, let alone place the energy performance certificate on a place visible to the public. In addition, when a building is non-compliant with the minimum standards, it is highly unclear who is to be penalized for this (i.e. the landlord or the tenant). Detailhandel Nederland foresees great problems with this, and would therefore like to voice its main concerns with respect to the proposal.

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## Main concerns of Detailhandel Nederland regarding the proposal

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### Effects of current legislation are hardly known: first facts then policy

- A big concern for the Dutch retailers is the lack of implementation of the current Directive that came into force in 2006. In the Netherlands the Directive on Energy Performance of Building is barely implemented according to recent investigations from the Commission. Detailhandel Nederland would first like to see proper impact assessments made of the current situation before any new proposals can be adopted. Besides this, assessments of the new proposal from both the European Union and the Dutch government, are predominantly negative, pointing to increases in administrative burden and a lack of (cost)effectiveness. To Detailhandel Nederland this is yet again an argument not to push through the new Directive. More in-depth studies on the return on investments for businesses should be undertaken before the deletion of the 1000m<sup>2</sup> threshold, and other changes foreseen in the Directive should be considered.

### Minimum standards: specify the notion of cost optimality

- Regarding Member States' freedom to manually set minimum standards with regard to the energy performance of buildings, Detailhandel Nederland asks for a cap on this autonomy. The reason for this is that too high minimum standards could cause retailers to refrain from doing major renovations in order to avoid the obligation of making huge additional investments to comply with unreasonably high minimum standards. In a case where a Member State, for example the Netherlands, sets these standards too high, it would not make sense for the retailer to invest in a major renovation since this will be too burdensome. This will mean that none of the objectives of the Directive (>energy efficient buildings) will be met and, moreover, refraining from investments could lead to abatement of real estate.
- Detailhandel Nederland thinks that avoiding such a situation can best be achieved by specifying the notion of cost optimality. Whereas the regulation forces retailers to make investments to comply with the minimum standards, the standards should never exceed a level that enables the retailer to recuperate his or her investments within three years at an internal interest rate of 15%, a rate that the Dutch government sees as reasonable to determine the feasibility of an investment.

### Display Energy Performance certificate: no added value

- Detailhandel Nederland is against the display of an energy performance certificate in stores with a bigger surface area than 250 m<sup>2</sup>. Most of all because Dutch retailers tend to rent their buildings. While the landlord could be largely responsible for the energy performance of a building, a retailer might only influence the energy performance of his own activities. Therefore the majority of retailers cannot be held fully responsible for the energy performance of their buildings, yet could get scrutinized for this by their customers.
- Another argument against the proposal would be that the 250 m<sup>2</sup> threshold is highly arbitrary and can hamper the level playing field in the retail sector.



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