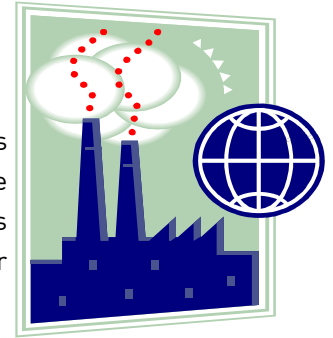


Energy Performance Management

Non-dwellings are responsible for almost 20% of the UK's energy consumption and carbon emissions.

The implementation of the Energy Performance of Buildings Directive 2002/91/EC was designed to provide for increased climate control, reduced CO₂ emissions and increase energy usage. As part of the implantation of that Directive landlords and property owners will be required to provide an Energy Performance Certificate to any prospective buyer or Tenant when they construct, sell or lease a commercial "building".



What "buildings" require an Energy Performance Certificate (EPC)?

For a "building" to fall within the requirement for an EPC it must:

- Have a roof and walls; and
- Use energy to condition the indoor climate (for example, heating, mechanical ventilation or air-conditioning)

The EPC should also reflect the accommodation being sold or let. In practice this means any EPC provided should reflect the energy performance of the space being offered for sale or let. If a building has multiple uses or tenancies, it may mean that more than one EPC is required.

When will an EPC be required?

The requirement to have an EPC is being staged depending on the size of the building:

From 6th April 2008 an EPC will be required for buildings with a total useful floor area of over 10,000 m².

From 1st July 2008 an EPC will be required for buildings with a total useful floor area of over 2,500 m².

Finally, from 1st October 2008 an EPC will be required for all other buildings that are not dwellings.

The requirement to have an EPC only applies to those on **construction, sale or let**. Once obtained the EPCs for the sale or letting of buildings other than dwellings, unless they are altered in any way or the material use changes, will be valid for 10 years. The obligation to obtain an EPC falls on the owner or landlord of a building and not the tenant.

Once a building under construction is physically complete it will be the responsibility of the **person carrying out the construction** to provide an EPC and recommendations report to the owner of the building. If a building is being modified to include the provision or extension of fixed services for heating, air conditioning or mechanical ventilation a new EPC will be required. It is the responsibility of the **person carrying out the modification works** to provide an EPC and recommendations report to the owner of the building. Building Control will not issue a certificate of completion for construction or modification works until they are satisfied this has been done.

As soon as a building is being offered for sale or let, it is the responsibility of the seller or landlord to ensure an EPC is made available to prospective buyers or tenants. The assignment of a lease is considered to be a sale or letting and as such the assignor should normally provide the EPC. Unlike non-dwellings, it is the responsibility of the landlord or seller to ensure an EPC is available when a property is for sale or let and not that of any agent acting on their behalf.

It is the duty of every person with an interest in, or in occupation of the building to co-operate with any seller or prospective landlord as far as is necessary to enable them to comply with any duty under the Regulations to make an EPC available and to allow an energy assessor access to their building.

Although the cost of an EPC will vary depending on the size of the building, it is estimated an EPC for a building of over 10,000 m² could cost over £3,500.00 plus VAT. It has also been commented that a low EPC grade could affect the value of the property.

What is an EPC?

The purpose of an EPC is to indicate how energy efficient a building is. Each building will be given a rating and obviously the better the rating, the more energy efficient the building will be. The EPCs must be carried out by an accredited Energy Assessor and are supplied with a report which should include cost-effective ways of improving the energy rating of the building.

The EPC will then be stored on a national register and once on there (subject to certain exceptions) the information on the EPC cannot be changed. The Register is designed to be a single source of EPC information on a building. The Register is operated by Landmark Information Group Limited. The data will also be retained on the Register for 20 years so interested parties will be able to see whether the energy rating of the building has improved or reduced.

When must the EPC be provided?

The valid EPC and recommendation report must be supplied free of charge at the earliest opportunity and in any event no later than:

- When any written information about the building is provided in response to a request for information received from the prospective buyer or tenant; or
- When a viewing is conducted; or
- In any event, before entering into a contract to sell or let

A landlord or seller would not have to provide an EPC if they reasonably believe the prospective buyer or tenant does not have the funds to buy the property or let it or the seller or tenant is unlikely to be prepared to sell to the prospective buyer.

When is an EPC not required?

There are certain buildings which will be exempt from the requirement to have an EPC despite being constructed, sold or let:

- Places of worship
- Temporary buildings with a planned time of use of less than two years
- Stand alone buildings with a total useful floor area of less than 50m² that are not dwellings
- Industrial sites, workshops and non-residential agricultural buildings with low energy demand
- Buildings due to be demolished provided the seller or landlord can demonstrate that:
 - The building is to be sold or let with vacant possession
 - The building is suitable for demolition and the resulting site is suitable for redevelopment
 - The landlord or seller reasonably believe the prospective buyer or tenant intends to demolish the building

What buildings require a Display Energy Certificate (DEC)?

In addition to those provisions requiring an EPC, a valid DEC will be required for any building occupied by public authorities and public institutions which provide public services to a large number of persons and with a useable floor area of over 1,000 m² from 1st October 2008.

They will be obliged to display the DEC at all times and in an area which is clearly visible to the general public. They must also have a valid advisory report in their possession.

The DEC is designed to show the actual energy used by the building whereas an EPC will show the intrinsic performance of the building.

Penalties for not having an EPC

Local Authorities will be responsible for enforcing the requirement to have an EPC. It is, therefore, likely to be Trading Standards officers that will ultimately have the responsibility for enforcement.

If you fail to provide an EPC when required by the Regulations it means you may be liable to a penalty charge notice. Trading Standards can insist that you provide them with a copy of the EPC and the recommendations report. If they do, it must be supplied to them within 7 days. They have until 6 months after the last day for compliance with the obligations to request the EPC.

The penalty for failing to make an EPC available is fixed, in most cases, to 12.5% of the rateable value of the building to a maximum of £5,000. If the formula cannot be applied for any reason a default penalty of £750 can be applied.

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