

Information

Energy Performance Certificates (EPCs)

Introduction

EPCs are now compulsory on the sale or let of a commercial property. This information sheet sets out the key points.

What is an EPC?

An EPC is a certificate provided by an accredited energy assessor which is designed to summarise the energy performance of a building. A rating from A - to- G will be given, where A is the most efficient and G is the least efficient. The EPC also contains a recommendation report on how the building could be made more energy efficient.

Each EPC will be given a unique reference number. It is stored on a central register so an EPC can be made available to prospective buyers or tenants. An EPC is valid for 10 years or until a new EPC is obtained in respect of that property. The EPC must be provided by the seller or the landlord free of charge.

Key dates

06 April 2008

EPC needed when a building or part of a building with a floor area of more than 10,000 square metres is constructed, modified, sold or let

01 July 2008

EPC needed when a building or part of a building with a floor area of more than 2,500 square metres is constructed, modified, sold or let

01 October 2008

EPC needed when a building or part of a building regardless of floor area is constructed, modified, sold or let (subject to the exceptions set out below).

Definitions

The legislation contains a number of definitions. The most important definitions are set out below:

- 1 **"Building"** is a "roofed construction having walls, for which energy is used to control the indoor climate". It can be the whole of a building or part of a building where the part is designed or altered to be used separately. It can include agricultural buildings.
- 2 **"Controlling the indoor climate"** relates to heating, air conditioning or mechanical ventilation.

Exemptions

The following types of building are exempt from an EPC:-

- 1 Places of Worship;
- 2 Temporary buildings with a planned time of use less of than 2 years;
- 3 Stand alone buildings with a total useful floor area of less than 50 square metres;
- 4 Industrial sites, workshops and non residential agricultural buildings with low energy demand (these include buildings or parts of buildings whose purpose is to

Head Office

3 Lonsdale Gardens
Tunbridge Wells
Kent TN1 1NX
T 01892 510000
F 01892 549884

Thames Gateway

The Old Rectory
St. Mary's Road
Greenhithe
Kent DA9 9AS
T 01322 623700
F 01322 623701

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accommodate industrial activities in spaces where the air is not conditioned).

EPCs for Part of a Building

- 1 If a building has a common heating system then the seller or prospective landlord can either:
 - Prepare or make available an EPC for the whole building; or
 - Prepare or make available an EPC for the part which is being offered for sale or let provided that the part is designed or altered to be used separately.
- 2 For buildings with separate parts and separate heating systems an EPC should be provided or made available for each part that is being offered for sale or let.
- 3 For buildings which contain an independently conditioned, shared or communal area and the purpose of this conditioned space is mainly for access to a part of the building, the energy consumption of the shared space is allocated to each unit in accordance with the percentage of the floor area of each unit.

When is an EPC not required?

Certain transactions do not require an EPC. These are:

- 1 Lease renewals or extensions;
- 2 Compulsory purchase orders;
- 3 Lease surrenders.

When must an EPC be provided?

An EPC must be provided or made available to a prospective purchaser or tenant at the earliest opportunity and not later than the earliest of:-

- 1 Inspection of the property by the prospective purchaser or tenant;
- 2 The owner providing written information about the building in response to requests for information received from the prospective purchaser or tenant; and
- 3 Exchange of contracts.

Who must provide the EPC?

- 1 When a building is being constructed and is physically complete, the person carrying out the construction must provide an EPC to the owner.
- 2 When a building is being modified so as to include more or less parts than it originally had and the modification involves the provision of heating, air conditioning or mechanical ventilation, it is the person carrying out the modifications who must provide the EPC to the owner.

Note: in 9.1 and 9.2 above Building Control will not issue a certificate of completion until they are satisfied that an EPC has been provided.

- 3 As soon as the building has been offered for sale the seller must make an EPC available to prospective purchasers.
- 4 As soon as the building has been offered

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for let the landlord must make an EPC available to prospective tenants.

Note: on the assignment of a lease, it is the assignor's responsibility to provide an EPC.

Obtaining an EPC

An energy assessor must be commissioned to produce an EPC. The energy assessor will belong to an accreditation scheme. Energy assessors are responsible for conducting an energy assessment, producing an EPC and lodging the EPC with their accreditation scheme.

Penalties

The requirement for an EPC to be made available is enforced by the local authority through the Trading Standards Officers. The Trading Standards Officers can request a seller or landlord to provide a copy of the EPC within 7 days of request. There is a fixed penalty charge. In most cases this is fixed at 12.5% of the rateable value of the property.

There is a formula for calculating the penalty. If the formula cannot be used, the default fine is £750. The range of penalties under the formula are set at a minimum of £500 and capped at a maximum of £5,000.

Conclusion

As the requirements on the sale or letting of a property become more complicated, it is increasingly important that professional advice is obtained well in advance, before a property is placed on the market.

Further Information

This information sheet has been prepared to highlight some of the key issues relating to the requirement for EPCs on commercial property. It is intended to be for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at April 2008 and may be affected by subsequent changes in the law. For more information please contact Sarah Easton on 01892 510000 or email at sarah.easton@ts-p.co.uk.