

## ENERGY PERFORMANCE CERTIFICATES

### F.A.Q.

**Q. What is this new legislation?**

- A. The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulation 2007 introduces the requirement that an Energy Performance Certificate ('EPC') must be provided free of charge when a commercial '**building**' is sold, let, constructed, or undergoes a qualifying modification.

**Q. What is an EPC?**

- A. A Certificate recording the energy efficiency of a 'building' on a sliding scale of A-G based on its age condition and location and recommending ways in which to increase energy efficiency and reduce carbon emissions. Once assessed the ratings will be recorded on a National Government register.

**Q. What is a 'building'?**

- A. A roofed construction having walls for which energy is used to condition the indoor climate.
- A building split into parts (with each part separately occupied) but with a common heating system will only require one EPC for the whole building.
  - A building split into parts (with each part separately occupied) but with separate heating systems for each part will require separate EPC's for each part of the building.

**Q. When is an EPC required?**

- A. From 6 April 2008            on completion of a newly constructed commercial building
- From 6 April 2008            on completion of any major modification of an existing building
- From 6 April 2008            on the sale or letting of a commercial building with a floor area of more than 10,000m<sup>2</sup>

From 1 July 2008	on the sale or letting of a commercial building with a floor area of more than 2,500m <sup>2</sup>
From 1 October 2008	on the sale or letting of all commercial buildings (including agricultural buildings)

**Q. When is an EPC not required?**

- A.
1. On the construction sale or letting of a building, where the building is -
    - a place of worship
    - a temporary building with a planned use of less than 2 years
    - industrial sites, workshops, and non-residential agricultural buildings with 'low energy demand' [no definition of 'low energy demand' yet available]
    - stand-alone buildings with a 'total useful floor area' of less than 50m<sup>2</sup> which are not residential dwellings.
  2. On the sale or letting of a building due to be demolished provided that the Seller / Landlord can demonstrate -
    - the building is sold or let with vacant possession.
    - the building is suitable for demolition and (subsequently) for redevelopment.
    - there is reasonable evidence that the Buyer / Tenant intends to demolish the building - eg. planning permission.
  3. On the surrender of an existing Lease.
  4. On the renewal of an existing Lease.
  5. The building is subject to a Compulsory Purchase Order.

**Q. Who provides the EPC and to whom?**

- A.
- By a Seller to a Buyer on the sale / purchase of a building.
- By a Landlord to a Tenant on the grant of a new lease of a building.
- By a Developer to a landowner following the construction or modification of a building.
- By an Assignor to an Assignee upon the assignment of an existing Lease.
- By a Tenant to a Sub-Tenant upon the grant of a Sub-Lease (unless the Tenant can persuade the Landlord to obtain an EPC in respect of the whole building - assuming a common heating system).

**Q. When does the EPC have to be provided?**

- A.
1. In the case of a sale or letting, the earlier of: -
    - when written information about the building is made available.

- when the building is viewed by a prospective Buyer or Tenant.
  - completion of the sale or grant of the Lease.
2. In the case of modifications to an existing building: -
- Upon completion of the works. (There is a further obligation to give notice of completion of works to Building Control).

**Q. Does an EPC have to be provided on every viewing of the building?**

- A. No - if there are reasonable grounds to believe that: -
- the viewer has insufficient means to proceed
  - the viewer is not a genuinely interested party
  - the viewer is not someone to whom the building is likely to be sold or let.

**Q. For how long is an EPC valid?**

- A. 10 years unless: -
- a further EPC on the same building is obtained within the 10 year period; or
  - a qualifying modification is made to the building within the 10 year period

**Q. Can the same EPC be used in any 10 year period for different tenants?**

- A. Yes PROVIDED THAT: -
- a qualifying modification of the building has not occurred
  - a new EPC has not been issued in the 10 year period.

**Q. What is the penalty for non-compliance?**

- A. A fine - calculated at 12.5% of the ratable value of the building - subject to £500 minimum / £5000 maximum.

For further information about EPC's, please contact Actons' Commercial Property team on 0115 9 10 200 or email [enquiries@actons.co.uk](mailto:enquiries@actons.co.uk)



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