

ENERGY PERFORMANCE OF BUILDINGS REGULATIONS 2007

The Energy performance of Buildings Regulations 2007 (“Regulations”) have now come into effect for all types of commercial property from 1 October 2008. They have been introduced to comply with the Energy Performance of Buildings Directive and the need for higher standards of energy conservation.

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.

It is now necessary for the owner/landlord of a property to provide an EPC whenever a commercial building is constructed, sold or let. Various buildings are excluded from this requirement, such as places of worship, temporary buildings with a planned time of use of less than two years, industrial sites, workshops and non-residential agricultural buildings with “low energy demand”. EPCs are also not required on sale or rent for buildings to be demolished (but certain criteria must be met).

In general, nearly all commercial properties will require an EPC when constructed, sold or let and if an EPC is not provided then a penalty will be imposed, which could be up to a maximum of £5,000. It should be noted that EPCs are not required for lease renewals or extensions, compulsory purchase orders, sales of shares where the building remains in the company’s ownership and lease surrenders.

Certificates

Energy Performance Certificates rate the energy performance of a building. The certificate will provide a rating from A to G, where A is very efficient and G is very inefficient.

EPCs are produced using standard methods so that the energy efficiency of one building can easily be compared with another building of the same type. An EPC should be accompanied by a recommendation report that lists cost effective and other measures to improve the energy rating of the building.

Builders or property developers must be aware of these energy efficiency measures. In particular, they will be required to obtain a valid EPC before the Building Control Inspector issues a completion certificate. The completion certificate will not be issued if an EPC has not been produced. There are very few exceptions to the need to obtain an EPC and these are set out in more detail in regulation 4.

Trading Standards will also enforce the requirement for EPCs. The potential fine will be 12.5% of the rateable value of the premises, subject to a minimum of £500 and, as referred to above, a maximum of £5,000 (regulation 43). Once obtained, an EPC will last for ten years unless a new certificate is issued in the meantime.

Display Energy Certificates (DECs) will be required for buildings that are occupied by a public authority or an institution providing a public service to a large number of persons and that have a useful total area greater than 1,000 sq.m. DECs are valid for one year. The accompanying advisory report is valid for seven years.

The requirement for DECs came into effect on 1 October 2008. Trading Standards Officers will prosecute if a DEC is not displayed. The penalty is £500 for failing to display a DEC and £1,000 for failing to have a valid advisory report.

Air Conditioning Systems

The timetable for introducing measures relating to air conditioning systems is as follows:-

- 4 January 2009 first inspection of all existing air conditioning systems over 250kW must have occurred by this date.

- 4 January 2011 first inspection of all remaining air conditioning systems over 12kW must have occurred by this date.

The regulations will introduce measures to ensure that larger air conditioning systems are regularly inspected. The potential fine for failing to ensure an inspection takes place is £300.

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