

Commercial Alert

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Energy Performance Certificates – To be required for Commercial buildings

The recent introduction of Home Information Packs as an integral part of the buying and selling of residential buildings has received enormous publicity in the run-up to implementation.

Included in the HIP is the mandatory requirement to produce an Energy Performance Certificate (EPC) which rates the building in terms of the energy emitted (effectively wasted) from the property.

It's a less known fact that mandatory EPCs are soon to be introduced in respect of commercial buildings.

From 6 April 2008 an EPC will be required on the sale or renting out of larger commercial premises (total useful floor area in excess of 500 square metres). As from 1 October 2008 this will be a requirement on the construction, sale or renting out of all but exempted commercial premises. The EPC assessment will produce an energy rating and a set of recommendations for improving the energy efficiency of the building.

Exempted premises are:

- Small buildings of less than 50 square metres.
- Buildings used primarily or solely as places of worship
- Temporary buildings with a planned time of use of two years or less
- Industrial sites, workshops, and non-residential agricultural buildings with low energy demand

The definition of “building” includes a part of a building which has been designed (or altered) to be used separately from other parts of the building. Clearly this includes, for example, buildings which accommodate separate enterprises in self-contained offices.

The clear implication of this is that, if one tenant in a multi-let building decides to assign or sublet its premises, the whole of the building will need to be assessed. This will naturally raise questions over the responsibility for costs and the making of practical arrangements to allow access for the assessment to be carried out. However, the Regulations impose a specific duty on every person with an interest in, or in occupation of, the building to allow access to any energy assessor appointed by any person with a duty to obtain an EPC.

Once obtained, an EPC will have validity for a period of ten years. Consequently, unless the building is subsequently altered, an EPC used by one assignment or one underletting should be useable for other subsequent transactions.

The Regulations also require inspection of air conditioning equipment. These come into effect on 1 January 2008. The deadline for the first inspection in respect of equipment with an output of more than 250 KW in 4 January 2009 and for smaller systems is 4 January 2011.

As for the EPC, the report will include recommendations and not requirements. Consequently, if a landlord elects to follow those recommendations there will be no mechanism for recovering costs from tenants.

*These notes are for guidance purposes only. We believe the contents to be correct but it should not be taken as sufficiently accurate or full to apply in any specific situation without first referring to us. We would be pleased to advise on any specific issue or problem.
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