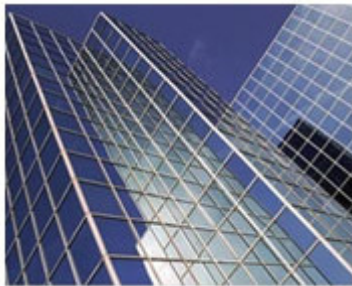


A client guide to energy performance certificates for the construction, sale and let of non-dwellings

Preface



This document is intended to give a simplified overview of Commercial Property Energy Certification. It aims to help prospective sellers, buyers, landlords, and their agents understand how the European Directive 2002/91/EC on the Energy Performance of Buildings Directive, works in practice, how to apply the Regulations and what their responsibilities are regarding Energy Performance Certificates.

Why energy performance certificates are required

An Energy Performance Certificate (EPC) is intended to inform potential buyers or tenants about the energy performance of a building, so they can consider energy efficiency as part of their investment or business decision to buy or occupy that building.

An EPC will provide an energy rating for a building which is based on the performance potential of the building itself (the fabric) and its services (such as heating, ventilation and lighting). The energy rating given on the certificate reflects the intrinsic energy performance standard of the building relative to a benchmark which can then be used to make comparisons with comparable properties.

It is accompanied by a Recommendation Report, which provides recommendations on how the energy performance of the building could be enhanced, together with an indication of the payback period.

Buildings requiring an energy performance certificate

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. This is the case where the building has any of the following fixed services: heating, mechanical ventilation or air conditioning.

Where a building is expected to have heating, mechanical ventilation or air conditioning installed, it will require an EPC based on the assumed fit out.

A building can either be:

- the whole of a building; or
- part of a building, where the part is designed or altered to be used separately.

In general terms an EPC should reflect the accommodation being sold or let.



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Selling or letting part of a building

The seller or prospective landlord has a choice:

- to prepare (or make available) an EPC for the whole building; or
- to prepare (or make available) an EPC for a part designed or altered to be used separately being offered for sale or let. The assessment should be based on energy use per m² for the whole building.

A practical example might be a DIY store with warehouse, retail space and offices. If the whole accommodation is offered for sale or let for use together, then an EPC should reflect the whole building.

It is the action of **selling, letting** or **construction** that triggers the requirement for an EPC.

Therefore existing occupiers and tenants will not require an EPC unless they sell, assign or sublet their interest.

When Energy Performance Certificates are required

From **6 April 2008** those buildings with a total useful floor area greater than 10,000m² will require an Energy Performance Certificate on construction, sale or let.

From **1 July 2008** those buildings with a total useful floor area greater than 2,500m² will require an Energy Performance Certificate on construction, sale or let.

From **1 October 2008**, all remaining buildings that are not dwellings will require an Energy Performance Certificate on construction, sale or let.

Situations where an EPC is not required

EPCs are not required on construction, sale or rent for:

- places of worship
- temporary buildings with a planned time of use less than two years
- stand alone buildings with a total useful floor area of less than 50m² and non-residential agricultural buildings with low energy demand

What is an EPC and what does it mean?

The EPC looks broadly similar to the energy labels now provided with vehicles and many white goods appliances, such as fridges & freezers for example. Its purpose is to indicate how energy efficient a building is. The certificate will provide an energy rating of the building from A to G, where A is very efficient and G is the least efficient. The better the rating, the more energy-efficient the building is, and the lower the fuel bills are likely to be. The energy performance of the building is shown as a Carbon Dioxide (CO²) based index.

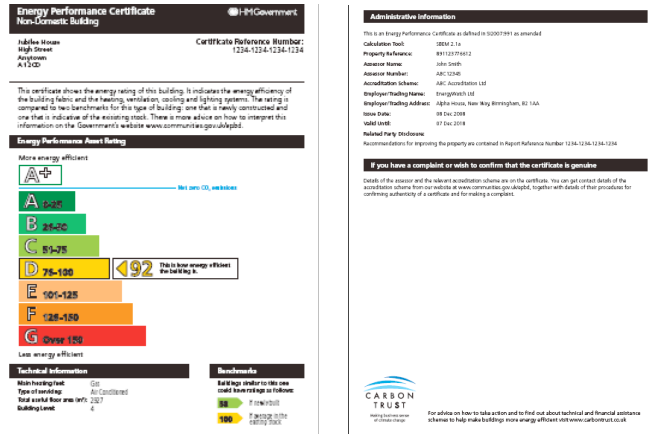
Each energy rating is based on the characteristics of the building itself and its services (such as heating and lighting). Hence this type of rating is known as an **Asset Rating**.



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The asset ratings will reflect considerations including the age and condition of the building. It is accompanied by a recommendation report, which provides recommendations on using the building more effectively, cost effective improvements to the building and other more expensive improvements which could enhance the building's energy performance.

The certificate is accompanied by a report which includes cost-effective recommendations to improve the energy ratings. For each improvement indicative paybacks are listed.



Registering EPCs

EPCs for non-dwellings are stored in a national register. The national register is the official place for the storage of all EPCs for non-dwellings and is the single source of EPC information for a building. Having a register helps to protect consumers. Those legitimately in possession of an EPC, i.e. building owners, tenants and their agents, can verify the authenticity of a certificate by checking it against the contents of the register.

Commercial Property Energy Assessors (through their Accreditation Schemes) lodge each EPC after they produce it, and each is given a unique certificate reference number. Access to the database is restricted, so only those who have the unique reference number can access the certificate registered for a particular building.

Responsibilities for providing an EPC on construction or modification of a non-dwelling

When a building being sold, let or constructed is physically complete, it is the responsibility of the person carrying out the construction to give an EPC and recommendations report to the owner of the building and to notify Building Control that this has been done. Building Control will not issue a certificate of completion until they are satisfied this has been done.

A valid EPC and recommendation report must be made available free of charge by the seller or landlord to a prospective buyer or tenant when non-dwellings are sold or let. This information should be provided at the earliest opportunity and 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



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- when a viewing is conducted; or
- in any event, before entering into a contract to sell or let.

Whilst the Regulations state that an EPC should be provided free of charge to prospective buyers or tenants, a landlord may organise an EPC for the whole building and may be able to recover the cost of producing a certificate via the service charges. However, this will depend on how the lease is drafted.

Responsibilities for providing EPCs when selling or letting a non-dwelling

As soon as a building is in the process of being offered for sale, it is the responsibility of the seller to make available an EPC to prospective buyers. As soon as a building is in the process of being offered to let, it is the responsibility of the prospective landlord to make available an EPC to prospective tenants.

A lease assignment would be considered to be a sale or letting and the assignor should normally provide the EPC. As enforcement officers can request a copy of an EPC from a duty holder at any time up to six months after it was required, it would be prudent for sellers or landlords to retain their reference number so that a copy of an EPC can be requested from the register if required.

Transactions not considered to be a sale or let

The purpose of providing an EPC during the sale or letting process is to enable potential buyers, tenants or building occupiers to consider energy performance of a building as part of their investment.

However, the following transactions would not require an EPC:

- lease renewals or extensions
- compulsory purchase orders
- lease surrenders.

The process for producing an EPC

Once an energy assessor has been commissioned to produce an EPC, there are three main steps to performing the assessment, which are:



1. Gathering the relevant information about the building
2. Analysing the information and identifying different zones of the building
3. Entering the information into an approved software programme.

During the assessment the energy assessor will collect information about the building. This will include plans, dimensions of the building, its uses, the number of floors, amount and type of glazing (i.e. single or double glazing), heating systems and fuel used.



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This information will be fed into an approved software programme using a Government approved energy assessment method. The software produces the certificate and the recommendation report for the building.

The energy assessor will then record the certificate onto the national register via his or her accreditation body and provide you, the seller or landlord with a copy.

The EPC is now ready to be given to new building owners or made available to prospective buyers or tenants.

How can clients assist and keep costs down?

The energy assessor will need to understand the internal layout of the building and for what purposes it is designed to be used. This is to understand the energy demands of each individual space (zone) in accordance with its designed use.

The information that will be required to produce an EPC includes:

- the individual spaces or zones in use within the building, and their dimensions (either as verified from plans or as measured). This information is most readily provided by building plans
- the activities conducted within the zones. Examples of zones include retail space, office space, kitchens, storage etc
- the heating and ventilation services for each zone (including type of system, metering, controls, fuel used etc.)
- the lighting and controls used for each zone
- the construction of the fabric of the building and thermal efficiency of the materials used: roof, floors, walls and glazing.

If there are no plans for a building, the energy assessor will need to survey the building and gather the appropriate information. If you have up-to-date information and plans for your building this process will be less time-consuming. The energy assessor is responsible for ensuring the information used in the energy calculations is accurate and, even where detailed plans are available, may need to validate this information by making a site inspection.

Building use, tenancy arrangements and the requirements for EPCs

The use and occupancy patterns of a non-dwelling can be complex, which is why we work in consultation with our clients to determine what your requirements are, to support you in satisfying the relevant legislation.

Recommendations with an Energy Performance Certificate

The recommendation report that is included with an EPC will help to improve the energy rating of a building. The recommendations only include those improvements that are appropriate for the building that has been assessed. For each recommendation indicative paybacks are noted. The recommendations are provided in four categories those:



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- with a short term payback – less than three years
- with a medium term payback – between three and seven years
- with a long term payback – greater than seven years; and
- other recommendations (based on the energy assessor's knowledge).



Penalties for not having an EPC

Local authorities (usually by their Trading Standards Officers) are responsible for enforcing the requirement to have an EPC on sale or let of a building. Failure to provide an EPC when required by the Regulations means you may be liable to a penalty for failing to make an EPC available. The range of penalties under a formula are set with a minimum of £500 and capped at a maximum of £5,000.

Summary Questions and Answers

How long are EPCs valid for?

An EPC for a non-dwelling will be valid for **10 years** or until replaced with a newer one.

How much will an EPC cost?

The price of EPCs will be set by the market and market demand. It is likely in practice that the cost will vary according to a number of factors including size, location and age of the building.

Do I need a new EPC every time I sell or let my building?

As long as a valid EPC exists for the building, you can provide this to prospective Tenants or buyers. An EPC is valid for 10 years and during this period you can provide the same EPC to prospective tenants. This EPC will no longer be valid if a newer EPC has been obtained.

Do I need an EPC if I have exchanged contracts to sell or let before 6 April 08, but have not yet completed the transaction?

The last point at which the duty to make available an EPC may be satisfied is when a prospective buyer or tenant enters into a contract to sell or rent the building ie upon exchange of contracts. In this case the contract has been exchanged before 6 April 08 and the duty to make available an EPC will not arise.

Do I have to act on the recommendations?

You are under no obligation to act on the recommendations for energy improvements to the building. However, taking action on the recommendations is likely to improve the energy efficiency of your building, reduce your fuel bills, cut its carbon emissions and could make it more attractive to potential buyers or tenants in the future.

I'm selling a building for demolition – do I need an EPC?

If you can demonstrate the building is suitable for demolition and the resulting site is suitable for redevelopment and you believe on reasonable grounds that the prospective buyer or



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tenant intends to demolish the building, you do not need to provide an EPC. Generally this can be demonstrated by having the relevant planning permission or evidence that planning permission has been applied for.

How can I order a Commercial EPC?

Wensley and Lawz is committed to making the whole process as easy for you as possible. Our team of expert advisers are ready to answer any questions you may have.

All you have to do is to contact Wensley and Lawz on 02476 233144.

Or view our website at www.wensleylawz.com

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Any interpretation of the Regulations is offered only as a guide, as Wensley and Lawz cannot provide legal advice. Therefore, it is important to read and understand the Regulations as well. In cases of doubt independent legal advice should be sought.



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