

Property for business

Energy Performance Certificates

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Welcome to the CBI's property for business supplement series. The Property for business guide was originally published in January 2005 as a first port of call for senior executives interested in getting more out of their property. It emphasised that businesses of all sizes can benefit from having a property strategy.

I'm delighted that the guide has been refreshed for 2008 and is complemented by a series of supplements. Each will provide a one-off introduction to regulatory issues affecting how you manage your business premises whether as a landlord or occupier.

I hope you find this first supplement and the series to come helpful as you face the challenges of managing business property in a fast-changing regulatory environment.

This first supplement features Energy Performance Certificates (EPCs). It explains what EPCs are, why you need to know about them and what you need to do to comply with government regulations. EPCs are important whether you are a developer, landlord, owner-occupier or tenant. They will apply to very large non-residential buildings from April 2008 and to all buildings from January 2009.

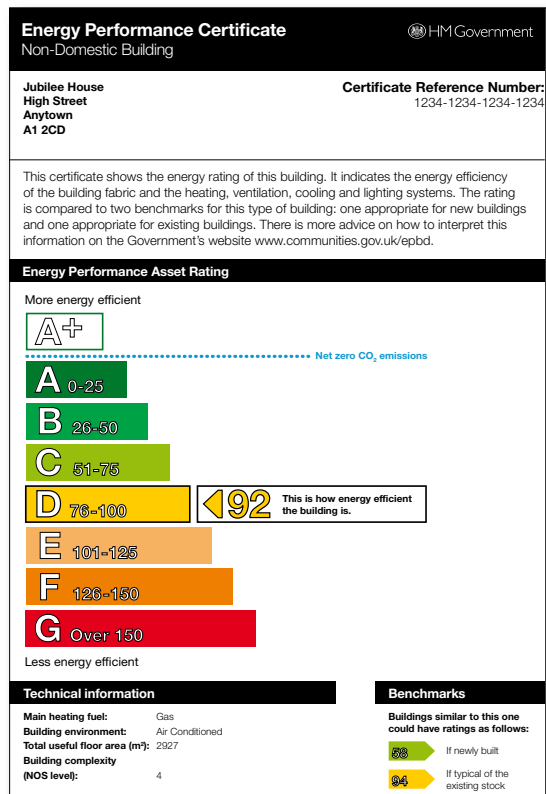
Please note that this guidance applies only to England and Wales. The European directive has been adopted separately and slightly differently by the devolved administrations in Scotland and Northern Ireland. (See 'Further Information' for details).

Julian Lyon
CBI Property Group Chair

A handwritten signature in black ink, appearing to read 'Julian Lyon', written in a cursive style.

What are EPCs?

An Energy Performance Certificate (EPC) is a document detailing the theoretical energy efficiency of a building based on an analysis of its fabric and its energy management systems. EPCs are already needed for the domestic sector but are being extended to the



non-domestic sector during 2008. The certificate will comprise a rating from A to G, where A is very efficient and G is very inefficient, to provide a quick and easy indication of the energy efficiency of the building. The certificate will also show a score from 1 to 150+ – the lower the score, the lower the typical CO₂ emissions from that building.

The EPC rating will be accompanied by a recommendation report highlighting measures that would improve the energy efficiency of the building. The certificate will show the potential rating that could be reached and will detail payback times for each of the recommended measures.

EPCs are based on an assessment of the energy efficiency of the core of the building and its services – heating (or cooling), lighting and ventilation.

The EPC does not indicate how efficiently the building is used – it is the responsibility of the occupier to operate the building in the most efficient way possible in the context of its business – it merely shows the ‘asset rating’ and the building’s potential to be energy efficient.

Why EPCs are important

The government has brought in EPCs in order to comply with Article 7 of the European Energy Performance of Buildings Directive. Regulations¹ detailing how EPCs will be implemented in England and Wales were passed by Parliament on 19 April 2007.

The government’s long-term target is to reduce carbon emissions by 60% by 2050. Since nearly 50% of the UK’s energy consumption comes from the way buildings are used, how they are heated, lit and what operations are carried out within them there is a clear role for buildings in tackling climate change.

The CBI’s Climate Change Task Force report reinforces this message, stating that measures implemented within the built environment could help deliver about 30% of the additional cuts required to be on track for the government’s 2050 target. A significant proportion of these changes can be achieved with a relatively short payback time.

EPCs can help by providing important information on the energy efficiency of a building so that prospective owners and occupiers of buildings can make informed choices about the property they choose to rent or buy. EPCs are also expected to help users of buildings to reduce their energy costs over time – these can be a significant proportion of their overheads.

Buildings which will need an EPC

In the context of EPCs, the government has defined a building as:

‘A roofed construction having walls, for which energy is used to condition the indoor climate; a building may refer to the building as a whole or parts thereof that have been designed or altered to be used separately.’

In practice it can be hard to gauge whether or not an EPC is needed – particularly where there are likely to be several tenants within a building, such as a high-rise office block or a shopping centre. In most cases the number of separate EPCs required will depend on how the building is heated.

¹ The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations <http://www.communities.gov.uk/documents/planningandbuilding/pdf/322911>

For example in large multi-let buildings where there is a common heating system, the landlord may choose either to obtain an EPC for the building as a whole or for each unit let separately. But if units have their own heating system the landlord must obtain an EPC for each.

In certain circumstances the landlord may also be required to include a proportion of the energy consumption of shared areas in each unit's EPC.

Recognising that units and floors in a building are likely to have similar conditions, the regulations allow an EPC for a unit to be based on an assessment of a similar representative one.

The government's guidance document www.communities.gov.uk/publications/planningandbuilding/businessguide provides practical examples for different building types used to help illustrate when an EPC is required. If you are still unsure about whether or not you need an EPC please contact the government's dedicated helpline (see 'Further Information').

How EPCs will affect your business

If you are selling or leasing property...

...you are legally required to produce a valid EPC (and recommendation report) free of charge on the sale or lease² of a building. The certificate must be available to prospective buyers or tenants:

- No later than the point at which any written information about the building is provided in response to a request from the prospective buyer or tenant
- When a viewing of the property is conducted
- Before entering into a contract to sell or let the property.

In practice therefore a valid EPC needs to be available as soon as a property is offered for sale or lease.

You do not need to provide an EPC if:

- You have reasonable grounds to believe that the prospective buyer or tenant is unlikely to have sufficient funds to purchase or lease the building or is not genuinely interested in buying or renting the building
- If you are unlikely to be prepared to sell the building to the prospective buyer.

If you are responsible for the construction or modification of a property...

...you are legally required to provide the owner with a valid EPC (and recommendation report) when a new property is constructed or an existing property is modified. The local Building Control department must also be notified of the EPC before a Certificate of Practical Completion can be issued.

For the purposes of these regulations, modification is considered to be where a building has more or fewer parts than it originally had and the changes include the provision of fixed services for heating, air conditioning or mechanical ventilation (ie which condition the indoor climate).

If you are buying or renting a property...

...you should ask to see a valid EPC and recommendation report for any building you are looking to buy or rent. The certificate provides information which can help you make an informed decision.

When an EPC will not be required

As well as the exemption for buildings which are not heated, ventilated or air conditioned a number of other building types or circumstances do not require an EPC:

- Places of worship
- Temporary buildings with a planned time of use of less than two years
- Standalone buildings under 50m² that are not homes
- Industrial sites, workshops and non-residential agricultural buildings with low energy demand.

In addition, the government does not expect the following circumstances to require EPCs:

- Lease renewals, extensions and surrenders
- Not for value transactions – eg intra-group transfers
- Compulsory Purchase Orders
- Buildings due to be demolished.³

What you need to do to obtain an Energy Performance Certificate

Your building will need to be assessed by an accredited energy assessor. The assessor will require information about the scale and layout of the building as well as how the space is used and serviced. Some of this data may be available from your building manager but in

² The regulations also require a valid EPC to be shown when a property is sub-let

³ This must be proved through vacant possession, the suitability of the site for demolition and redevelopment and reasonable belief that demolition will take place such as evidence of application for a planning permission

other circumstances the data may have to be gathered specifically for the assessment.

The type of information needed to produce an EPC is likely to vary depending on the type, size, age and use of the building.

The data will be processed using a software package specially commissioned by the government.

To help prepare for your assessment, you can compile some of the necessary information before employing an assessor although if you decide to go down this route it is advisable to create an audit trail so the assessor can easily access the necessary data.

Depending on the type of building, the assessor will need to be qualified at the right level. There are three levels which apply to the non-residential sector:

- Level 3 – simple, existing buildings (eg commercial property converted from houses)
- Level 4 – new and existing buildings (eg small purpose built offices)
- Level 5 – new and existing complex buildings (eg large office buildings or factories).

A list of the schemes that will be responsible for accrediting energy assessors to deliver non-domestic Energy Performance Certificates can be found at <http://www.communities.gov.uk/planningandbuilding/theenvironment/energyperformance/energyassessorqualification/accreditationstatement/>

If you have a large property portfolio it may be worth training one of your employees to become an accredited assessor to perform in-house assessments. Employees with a background in low-carbon consultancy and engineering will not need much additional training.

When you will need to get an EPC

The government is implementing EPCs gradually, starting with the largest buildings. From the following dates you will need to provide an EPC when engaging in the construction, modification, sale or lease of a building:

- 6 April 2008:** non-dwellings over 10,000m²
- 1 July 2008:** non-dwellings over 2,500m²
- 1 October 2008:** all remaining non-dwellings

After an EPC is issued

Once the assessment is complete an EPC with a unique reference number will be produced and the certificate placed on a central register: this will be confidential and not accessible to third parties.

The register of non-domestic EPCs will be operated and maintained by an independent organisation on behalf of the Secretary of State. The register will be accompanied by a list of accredited energy assessors. Details of the register will be announced by the government in due course and will be accessible via the government's EPBD website www.communities.gov.uk/epbd.

EPCs remain valid for ten years regardless of how many times they are shown for the purposes of selling or leasing a property. After ten years the certificate will expire and a new assessment will be required.

How much will it cost?

The cost of obtaining an EPC is likely to be significant but will vary considerably depending on the size, age, type, use and location of the building.

Long-term costs may be saved by training an employee to become an accredited energy assessor to perform in-house assessments – or if you are relying on assessments by external agencies, by compiling as much relevant information as possible ahead of the assessment.

While EPCs must be provided free of charge a landlord may recover the cost of producing a certificate via service charges depending on how the lease is drafted.

What happens if you don't have an EPC

Enforcement of EPCs will be administered by local authorities and in most cases carried out by trading standards officers. If an issue arises officers will ask to see a valid EPC and will allow seven days for the correct documentation to be produced. If after this time an EPC is not produced, the officer has the power to issue a penalty charge notice.

Penalty charges will start at £500 with a maximum of £5,000. The charge will be calculated as 12.5% of the rateable value of the property in question with a default charge of £750 where this is not possible. Penalty charges can be challenged by requesting a review and subsequent appeal through the county court if the charge is deemed unfair.

How EPCs can help with your property strategy

EPCs represent yet another regulation for businesses to comply with but they should not just be seen as a burden. From a more positive perspective, EPCs offer a standardised way of measuring and comparing the energy efficiency of non-domestic properties in England and Wales.

The lack of information on carbon emissions from buildings is seen as one of the key barriers to carbon reduction. EPCs therefore form an important tool in the response businesses can make to reduce their carbon footprint.

EPCs can help businesses devise and act on sustainability strategies through making informed choices on the type of property they occupy.

The benefits of knowing the energy rating of buildings go beyond corporate social responsibility: occupying an energy efficient building could save costs on energy bills whether you pay directly or through service charges.

Building operations

The government regulations will also require all publicly-funded buildings to have operational assessments showing the energy efficiency of how the building is used – its operational rating.

Display Energy Certificates (DECs), as they will be called, will be available from April 2008 but mandatory from October 2008 and will need to be updated annually. The government has said it will consult on whether DECs should be extended to the private sector but there is no timescale for doing so as yet.

The future of energy efficiency

The European Commission has made a commitment during 2008 and 2009 to look again at the Energy Performance of Buildings Directive with the possibility of increasing some of its standards. The CBI will be monitoring this closely.

Organisations including the CBI are exploring the possibility of 'greening' business rates, which would reward businesses occupying energy efficient buildings. One option for achieving this may be to charge different rates according to the EPC rating of the building occupied, although this could also be very complicated to achieve in practice.

Further information

- Background to the EPBD and details of the government's regulations see: www.communities.gov.uk/epbd
- Implementation of the EPBD in Scotland: www.sbsa.gov.uk
- Implementation of the EPBD in Northern Ireland http://www.dsdni.gov.uk/index/hsdiv-housing/hsdiv-energy_perf_certs.htm

For further information on any other issue please call the government helpline on **0845 365 2468** or email help@epbduk.info

CB Richard Ellis

CB Richard Ellis is the world's largest property advisor, dedicated to maximising the value of its clients' assets and delivering an unparalleled level of service to owners, investors and occupiers of commercial real estate.

Its Building Consultancy group offers a multi-faceted range of professional and technical skills, and the expertise of the Engineering Services and Energy & Sustainability teams are best placed to provide bespoke practical and technical guidance to obtaining Energy Performance Certificates (EPCs).

Gathering data and verification can be a lengthy process for each building, so it is advised that you act now.

For more information contact:
Stefan Desormeaux, Director, Engineering Services,
Building Consultancy
T: +44 (0)20 7182 3632 E: stefan.desormeaux@cbre.com

Charlotte Eddington, Director, Energy & Sustainability
Building Consultancy
T: +44 (0)20 7182 3490 E: charlotte.eddington@cbre.com

For further information or a copy in large text format, contact:

**Emma Wild, Senior Policy Advisor,
Business Environment, CBI**
T: +44 (0)20 7395 8141
E: emma.wild@cbi.org.uk