

COMMERCIAL PROPERTIES

The Need for EPCs and DEC's

There has been much publicity around HIPs and the Energy Performance Certificates (EPCs) needed for residential properties. However, few may be aware of the plans to introduce EPCs for commercial properties, both new and existing buildings.

The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 introduce higher standards of efficiency for new and refurbished buildings and will also introduce regular inspections for large air conditioning systems and advice of more efficient boiler operation for commercial property.

EPCs will be required in the construction, sale or leasing of all buildings by October 2008. The certificate gives a building two ratings on its energy efficiency (in terms of fuel bills) and its environmental impact (in terms of carbon emissions). The assessment must be carried out by an accredited assessor and the EPC will also contain recommendations, and the potential rating that could be achieved if all the measures were implemented.

From 6 April 2008 the lease or sale of buildings (non dwelling) with a floor area of over 500 sq m must be accompanied by an EPC which is provided at no cost to the tenant or buyer. This requirement will be extended to all non dwelling properties from 1 October 2008. The obligation to provide an EPC does not apply if the seller or landlord has reasonable grounds to believe that a prospective buyer or tenant is unlikely to have sufficient means to take on the property; is not genuinely interested in the property; or is not someone to whom the seller or landlord would be prepared to sell or rent out the building.

For commercial lettings, an EPC is only required for a newly leased property – there is no need to obtain an EPC for an existing tenancy. If a valid EPC still exists when changing tenants, no new certificate is required. This applies in both the private and public sector.

A developer must produce an EPC when a building is erected, converted into a number of different units, or where the services in a building are changed. In cases where off-plan properties are marketed before the construction of the building has been completed, a predicted energy assessment must be undertaken, and once the construction is complete, this predicted assessment must be replaced by an EPC.

Display Energy Certificates (DECs) will be required for public buildings over 1000 sq ft from April 2008. These vary in their form from EPCs, and are based on actual

energy usage over a three-year period. The building is then given an operational rating that assesses how well it has operated based on this consumption. DEC's must contain the same information as the EPC, but they will take effect from a nominated date, which must fall within three months of the end of the period over which the operational rating is calculated. DEC's must be renewed annually, which is in addition to the requirement for an EPC when a public building is constructed, sold or rented.

An EPC will be valid for ten years from the date on which it was issued, but it must not be more than 12 months old when the building is first marketed. A DEC is valid for 12 months from the nominated date. The advisory report on cost-effective improvements that accompanies the DEC is valid for seven years.

A further requirement will be introduced from 4 January 2009 which is for air-conditioning systems with a maximum output of more than 12kW to be inspected at least every five years by an energy assessor. This will be extended to smaller systems from 4 January 2011.

In terms of enforcement, fines of between £500 and £5,000 will be imposed if a valid certificate is not produced up to six months after the certificate was required or a valid DEC is not displayed. Recipients of penalty charges can request a review, after which an appeal may be made to the County Court.

The energy assessors themselves must be members of an accreditation scheme. All EPC and DEC recommendation reports will be recorded on a central register, which will enable sellers, occupiers and purchasers to be able to obtain copies of the documents relating to the property.

It is likely that the costs of EPC's and DEC's for large buildings will be substantial. It could also prove tricky for landlords to recover this cost via the service charge or on a sale. It may not be very practical to arrange for the inspections to take place, but there is an obligation on every person either with an interest in, or in occupation of, the building to allow such access to the inspector. Landlords need to consider whether improving energy performance will result in increased rental income to compensate for the increased costs, or whether tenants will argue for reductions where the rating of a building is poor.

The effect of the Regulations on the market cannot be predicted but the crucial point is the fast approaching deadline of April 2008.

For further advice and information, please contact Kate Greenwood on 01727 837161 or via email on kg@turnerdebs.co.uk

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