

Energy Performance Certificates



The Energy Performance of Buildings (Scotland) Regulations 2008 ("the Regulations") which implement the European Directive on the Energy Performance of Buildings come into force on 4 January 2009 when all commercial buildings whenever sold or rented will need an Energy Performance Certificate (EPC).

The owners or landlords of the building are required to make a copy of the EPC available to a prospective buyer or tenant. The owner or landlord may not charge the buyer or tenant for providing the EPC.

A person becomes a prospective buyer or tenant on the earliest of the dates when that person:-

- requests any information about the building for the purpose of deciding whether to buy or lease the building;
- makes a request to view the building for the purpose of deciding whether to buy or lease the building; or
- makes an offer, whether oral or written, to buy or lease the building.

The Regulations apply to all buildings which are heated or cooled. However, the Regulations do not apply to temporary buildings with a planned time of use of 2 years or less, workshops, non-residential agricultural buildings with low energy demand and stand alone buildings with a total useful floor area of less than 50m² which are not dwellings.

The Regulations will not apply to lease extensions, renewals or assignments where the original lease was entered into before 4th January 2009.

The Regulations also require an owner or occupier of a public building to display their EPC in a prominent place clearly visible to visiting members of the public. A public building is defined as a building with a floor area of more than 1000m² which is occupied by a public authority or by an institution providing public services and which can be visited by the public.

An EPC will be valid for 10 years, after expiry of the 10 year period the EPC will only require to be renewed if the building is to be sold or rented to a new tenant or if the building is a public building.

An EPC will express the asset rating of the building and include cost effective recommendations for improving the energy performance of the building. In the case of buildings in blocks the Regulations permit EPC's to be based on certificates obtained for other representative units in the same block. In the case of a multi-occupancy building with a communal heating system the Regulations permit there to be just one EPC to cover the whole building. EPC's may only be issued by a person or organisation approved by the Scottish Ministers.

The Regulations require a register of EPC's to be kept and those issuing the EPC are required to ensure that the EPC is sent for registration before being issued. The keeper of the register may disclose information on the register only to an approved organisation where the EPC was made by a member of that organisation or to enforcement authorities which are designated as local authorities.

Local authorities may require an owner or landlord to produce for inspection a copy of their EPC. If an owner or landlord should fail to comply with the Regulations the local authority may issue a penalty charge notice. The penalty is £500 for dwellings or buildings ancillary to dwellings or £1000 in other cases.

The legislation provides defences if an EPC has been unobtainable under certain circumstances and also for the owner or landlord to have the penalty charge notice reviewed.

These requirements are in addition to the requirement for EPC's to form part of the Home Report since 1 December 2008 in relation to residential properties and for an EPC to be attached to the completion certificate of a new build property if the building warrant for the property was applied for after 1st May 2007.

Should you have any queries regarding the above then please do not hesitate to contact any one of the Property Services Group Partners, being:-

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