

Letting Facts...

European Union Performance in Buildings Directive 2002 and The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 SI 2007/991 and SI 2007/1669

Commencement

From 1st October 2008, all buildings, whether residential, commercial or industrial, have been required to have an Energy Performance Certificate (EPC) that is no more than ten years old, for every occasion when they are brought, sold or rented. Currently these certificates are a mandatory part of Home Information Packs (HIPs).

Scope

The directive applies to any building that is rented out so it will be illegal to advertise a property to rent unless it has an Energy Performance Certificate (EPC). A certificate detailing its energy performance compared with reference values must be available for each self-contained accommodation unit. The certificate must be accompanied by recommendations of cost-effective measures to improve its performance and is intended to ensure the consideration of energy efficiency can play a proper part in the decision to rent or purchase the property. Exceptions will apply to certain buildings such as temporary accommodation and holiday lets. The legislation provides for a fine of up to £200 for failure to comply.

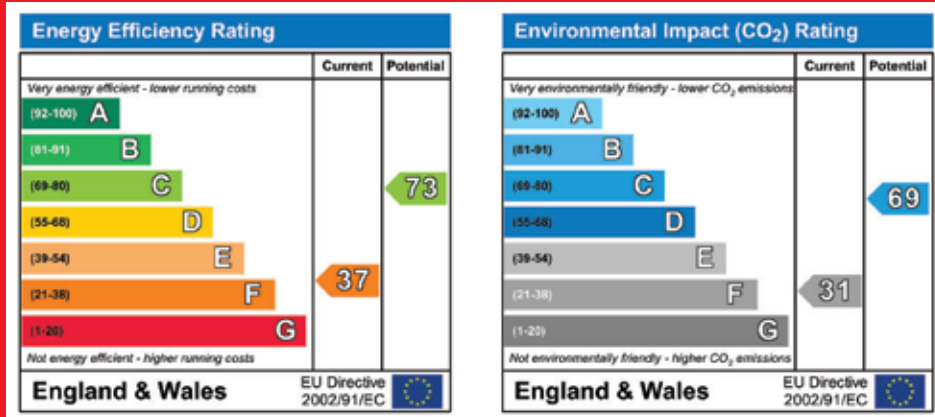
The Energy Performance Certificate

The Energy Performance Certificate is broadly similar to the certificates found on many domestic appliances with an energy rating on a scale from A to G (A signifying the highest efficiency rating). The EPC includes two charts: the first shows the calculated energy efficiency rating for the building, which is a relative measure of the efficiency of the building compared with pre-defined standards. The second chart, the so-called 'Environmental Impact (CO2) Rating', measures the overall energy output of the building, i.e. related to its size. Each EPC has a unique serial number and is produced by energy assessors and home inspectors authorised and accredited by the Government. In analysis of current EPCs for larger properties (four or more bedrooms) the average rating was band E.

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. The landlord's obligations will generally be satisfied if the assignor provides the EPC to the assignee.

The landlord is responsible for ensuring there is an EPC for the building, or part of the building, being let, even if an agent or another service organisation is acting on their behalf or providing an EPC. The seller or landlord should therefore ensure any agents acting on their behalf are complying with the regulations. 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 landlords to retain their reference number so that a copy of an EPC can be requested from the register if required.

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Energy Efficiency Improvements

In addition to information on the energy efficiency of the dwelling, the certificate will contain information about the typical running costs for standard occupancy. Information will also be included about potential cost-effective energy improvements and about further measures which may reduce energy use and carbon dioxide emissions, including those which are not currently cost-effective. There is currently no legal obligation on the landlord to make the improvements suggested.

Recommended Action

Agents may well be able to negotiate bulk deals with firms of Domestic Energy Assessors (DEAs) as, for those landlords or agents with portfolios of properties, companies will offer discounts for multiple deals. Some DEAs use a process which can apply the same rating to more than one property of the same specification. So owners or landlords of blocks of flats with more than one unit of the same specification can adopt the same sampling procedure at a considerable discount, as there is much less work involved than a complete survey.

Letting agents who are also selling agents are likely to already have an appropriate scheme in place. Any costs incurred in producing these certificates will need to be taken into account over the letting period but, as new certificates will only be needed once in ten years, this cost is likely to be small. Published examples of costs for certificates can be as low as £55 but the costs will depend on the age and size of the property concerned. Purchasers of property will receive a copy from the vendor which can then be used during any rental of that property.

Sources of Further Information

- www.homeinformationpacks.gov.uk/consumer/17_Energy_Performance_Certificate.html for information on Government policy on EPCs.
- www.defra.gov.uk for the background to the implementation of this European Directive.
- www.energy-performance-certificates.org/ includes county lists of DEAs supplying Energy Performance Certificates (EPCs).

This summary is intended to assist landlords and letting agents to understand the effect of these requirements. It is not an authoritative interpretation - this is a matter for the courts. For more detail, you should refer to the text of the regulations themselves.