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Commercial Energy Performance Certificates (EPCs) – Briefing Paper

Introduction

The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 SI 2007/991 as amended was the Government's response to European Union Directive 2002/91/EC on the Energy Performance of Buildings. The Directive requires member states to have a system for comparing the energy performance of buildings in place by 4th January 2009 or fines will be imposed, so there is no further scope for the Government to delay the introduction of commercial EPCs.

The EU directive was part of the Union's response to the Kyoto Protocol, an amendment to the UN Framework Convention on Climate Change. All the main political parties in the UK are committed to action to cut CO₂ emissions and as non-domestic properties contribute about 20% of our CO₂ emissions it was inevitable that action would be taken to try to change the behaviour of building owners and occupiers. EPCs are part of that action and they are here to stay.

Recommendations Report

In addition to the certificate the Commercial Energy Assessor (CEA) must prepare a Recommendations Report which is designed to help owners and occupiers to improve the energy efficiency of their buildings. The report only includes improvements that the CEA considers to be appropriate for the building that has been assessed. For each recommendation indicative payback periods are noted. The recommendations are provided in four categories, i.e. those:

- with a short payback period of less than three years
- with a medium term payback of between three and seven years
- with a long term payback of greater than seven years
- other recommendations based on the CEA's knowledge

The calculation method

For most properties the calculation method is a piece of Government approved software called the Simplified Building Energy Model (SBEM). Before entering the required data into the SBEM software, the CEA needs to follow the following procedure:

- The CEA splits the building into zones according to the type of activity, heating, cooling, ventilation and lighting in each zone. A single room might contain multiple zones. The floor area, wall, ceiling/roof and glazed areas for each zone must then be calculated.
- The CEA then needs to determine the construction of the building and zone envelopes and may need to calculate U Values (the amount of heat that can pass through the material) and Cm Values (how much heat the material can hold).
- The CEA needs to find out as much information as possible on the heating, cooling

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and ventilation systems in addition to the lighting, glazing and water heating.

- Once all the information has been obtained to the CEA's satisfaction, they will input the data into the software and run the EPC calculation. They must also prepare the Recommendations Report.

For complicated buildings, or where little or no information has been provided by the person responsible for procure the EPC, the whole process can be very time consuming. It is important to remember that the CEA owes a duty of care to all parties, not just the person or company that has instructed them, to ensure that the EPC is accurate. CEAs may face criminal proceedings for producing an EPC fraudulently and anybody who believe that an EPC may be wrong can apply to the CEA's accreditation body to have the matter reviewed.

General Information

EPCs are valid for 10 years in normal circumstances or until a newer EPC is prepared. From 1st October 2008 virtually all commercial properties will need to have an EPC following exchange of contracts for a sale or letting. From 4th January 2009 this requirement will be extended so that all such properties will require an EPC when they are placed on the market and available for interested parties to view the premises. A lease assignment is considered to be a letting for these purposes. Responsibility for ensuring that here is a valid EPC for the building or any part that is being offered for sale or to let rests with the owner or lessor respectively even if they have appointed an agent to act on their behalf.

EPCs are also required when buildings are constructed. He party carrying out the construction is required to obtain the EPC and Recommendations Report in this case and must inform Building Control when this has been done.

EPCs are **not** required for the following transactions:

- lease renewals or extensions
- compulsory purchase orders
- sales of shares in a company where buildings remain in company ownership
- lease surrenders

EPCs are **not** required for the following types of buildings:

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

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Costs

The cost of preparing an EPC will depend on the amount of time that the CEA needs to take to inspect the property, obtain the information required for the SBEM calculation and to consider the contents of the Recommendations Report. This will vary depending on the size and complexity of the building and the services in it. The market will determine the costs of an EPC, but most CEAs will determine their costs based on the time that all the work involved in expected to take.

The Government's regulations state that the EPC must be made available to prospective buyers or tenants free of charge, but in some cases (usually where a building has a single heating system) landlords may be able to obtain a single EPC for a building that is split into several parts and recover the costs involved from the tenants of the various parts via the service charge. This will depend on the wording of the various leases.

Penalties for not having an EPC when required

Local authorities (usually their Trading Standards Officer) are responsible for enforcing the requirement to have an EPC on sale or letting of a building. Failure to make an EPC available when required means that you will be liable for a civil penalty charge notice. If the Trading Standards Officer receives a complaint they may request you to provide them with a copy of the EPC and Recommendations Report within seven days. They can make such a request at any time up to six months after the last day for compliance with when the duty was to make it available.

The penalty for failing to make an EPC available to any prospective buyer or tenant is fixed, in most cases, at 12.5% of the rateable value of the building, with a default penalty of £750 where the formula cannot be applied. The range of penalties under this formula are set with a minimum of £500 and capped at a maximum of £5,000.

You have a defence against a penalty charge notice if you made a proper request for an EPC to an appropriate person at least 14 days before it was required and despite all reasonable efforts you have not received a valid EPC at the relevant time, or where you rent to a tenant in an emergency requiring his urgent relocation.

Additionally, if you fail to provide an EPC there is a danger that any sale or letting may be delayed.

Display Energy Certificates

Display Energy Certificates (DECs) are also required from 1st October 2008, but these are almost exclusively for public bodies with frequently visited public buildings. DECs record an Operational Rating, which is calculated directly by reference to the energy consumption in the building over the course of a year. DECs are valid for one year and the accompanying Advisory Report (similar to the Recommendations Report with the EPC) is valid for seven years.

Contact ncea: national commercial energy assessors on 0845 508 4344 or enquiries@ncea.co.uk for further information.