

(Jan 2017)

## GUIDE TO ENERGY PERFORMANCE CERTIFICATES

### The Background

- As of 4<sup>th</sup> January 2009 all commercial properties for sale or let now require a commercial EPC.
- The commercial EPC will tell you how energy efficient the commercial property is on a scale of A-G, with A being the most efficient. The certificate also tells you, on a scale of A-G about the impact the property has on the environment.
- It is now mandatory that a commercial EPC is in place prior to marketing a commercial property.
- Newly constructed commercial buildings are also required to have an EPC.
- The commercial EPC is combined with a recommendation report on how the property's energy efficiency can be improved, in addition to a potential rating if the recommendation work is carried out.
- Commercial EPCs are valid for a 10 year period.

Under current commercial EPC legislation a commercial EPC is not required on the following exempt premises:

- On lease renewals or extensions that were in place prior to 1<sup>st</sup> October 2008.
- Places of worship.
- Stand-alone buildings less than 50 square metres.
- Properties with consent to be demolished within a 2 year period.

Non-compliance with commercial EPC legislation will result in a penalty. The penalty is of up to 12.5% of the rateable value of the property, with a minimum of £500 and a maximum of £5,000. This is in addition to the cost of a compliant commercial EPC.

### 2018 & Onwards

Energy Performance Certificates (EPCs) contain an efficiency rating for the relevant building from A (the most efficient) to G (the least). Section 49 of the Energy Act 2011 will make it unlawful for a landlord to lease a non-domestic property which has a rating of F or G. The section with accompanying regulations is due to come into force on 1 April 2018. The Department of Energy and Climate Change has therefore published in July 2014 a consultation paper Private Rented Sector Minimum Energy Efficiency Standard Regulations (Non-Domestic) (England and Wales). It clarifies the Government's intentions and helps the property industry plan for the change.

The main proposals are:-

#### **Link to energy performance certificates**

The minimum efficiency level will be an E rating as shown on an EPC so F and G properties will be in default. Landlords of F/G properties will be able to market them. However, the prospective tenant and landlord of such a property must agree on proposals to improve efficiency levels. These must be carried out before a lease is granted.

## Works required to comply

Generally improving a property so it has a rating of E will be compliant. However, there will be properties where the landlord carries out the works as required by the regulations but the property's rating remains below E. In such instances the landlord can let the property. This is where the landlord has done all works which satisfy the "Golden Rule" under the government's Green Deal. The rule "is that repayments (of the Green Deal loan) for improvements must be the same or less than expected energy bill savings (in the first year)".

Having identified works which qualify under the Golden Rule, the landlord is free to finance them other than by a Green Deal loan if it wishes.

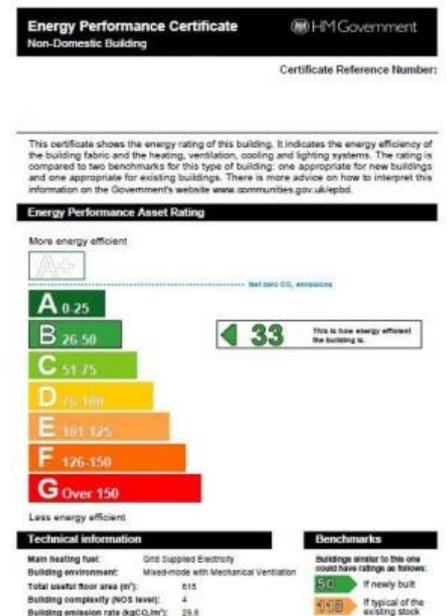
## Start date

New lettings granted on or after 1 April 2018 will become subject to the regulations. The proposed backstop will be 1<sup>st</sup> April 2023. This was one of the big unanswered questions prior to the consultation paper – would we get a "hard start" whereby existing lettings of F/G properties would overnight become unlawful on 1<sup>st</sup> April 2018?

## Lettings Exempt from the scheme

These include:

1. The regulations will only apply to buildings where there is an EPC. There may be lettings in place before the introduction of EPCs in 2007 which therefore escape the regulations.
2. Where EPC regulations exempt landlords from providing an EPC the minimum efficiency regulations will contain the same exemptions e.g. a short term letting of a building prior to its demolition.
3. Lettings under six months subject to a maximum of two such lettings to the same tenant.
4. Leases where the length is more than 99 years.
5. Lettings where the landlord cannot obtain the necessary consents for the efficiency works. Necessary consents can include: planning or building regulation approval: consents from lenders or superior landlords: a consent from a sitting tenant to allow the landlord access to do the works.
6. Where the works cause a material net decrease in the property's capital value.
7. Where the property does not qualify for any works which satisfy the Golden Rule under the Green Deal. This is subject to the landlord obtaining three Green Deal assessments which show this.



Sample EPC

## Further Information

[www.gov.uk/guidance/energy-performance-of-buildings-certificates-notes-and-definitions](http://www.gov.uk/guidance/energy-performance-of-buildings-certificates-notes-and-definitions)