Communities and Local Government

Improving the energy efficiency of our buildings

A guide to energy performance certificates for the construction, sale and let of non-dwellings

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The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 SI 2007/991and SI 2007/1669

January 2008
Department for Communities and Local Government

Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

Communities and Local Government Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 08701 226 236
Fax: 08701 226 237
Textphone: 08701 207 405
Email: communities@twoten.com
or online via the Communities and Local Government website: www.communities.gov.uk

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Preface

This document is not a statement of the law, but is intended to help prospective sellers, buyers, landlords, occupiers, building managers, builders and their agents understand how the Directive and Regulations work in practice, how to apply the Regulations, what their responsibilities are and when energy certificates are required.

Non-dwellings are responsible for almost 20 per cent of the UK's energy consumption and carbon emissions. This guide provides an introduction to the Regulations for energy performance certificates for non-dwellings on construction, sale or let in England and Wales. Energy performance certificates (EPCs) promote the improvement of the energy performance of buildings and form part of the final implementation in England and Wales of the European Directive 2002/91/EC on the Energy Performance of Buildings.

This guide describes the scope and requirements of the Regulations applying to non-dwellings on construction, sale or let and provides guidance on how these are applied. While this guidance aims to explain how the requirements will work in practice, any interpretation of the Regulations is offered only as a guide, as the Department cannot provide legal advice. Therefore, it is important to read and understand the Regulations as well. In cases of doubt independent legal advice should be sought.

This document is part four of the series that explains the introduction of energy performance certificates, display energy certificates, and air conditioning inspections in England and Wales.

Contents

Chapter 1

Introduction

1.1 Why energy performance certificates are required

An Energy Performance Certificate (EPC) is intended to inform potential buyers or tenants about the energy performance of a building, so they can consider energy efficiency as part of their investment or business decision to buy or occupy that building.

An EPC will provide an energy rating for a building which is based on the performance potential of the building itself (the fabric) and its services (such as heating, ventilation and lighting). The energy rating given on the certificate reflects the intrinsic energy performance standard of the building relative to a benchmark which can then be used to make comparisons with comparable properties. It is accompanied by a recommendation report, which provides recommendations on how the energy performance of the building could be enhanced, together with an indication of the payback period.

1.2 Buildings requiring an energy performance certificate

An EPC is only required for a building when constructed, sold or let.

For the purposes of the regulations, a building is defined as:

"a roofed construction having walls, for which energy is used to condition the indoor climate, and a reference to a building includes a reference to a part of a building which has been designed or altered to be used separately".

For a building to fall within the requirement for an EPC it must:

- have a roof and walls; and
- use energy to condition the indoor climate. This is the case where the building has any of the following fixed services: heating, mechanical ventilation or air conditioning. Although the provision of hot water is a fixed building service, it does not "condition the indoor environment" and would not therefore be a trigger for an EPC. The same argument applies to electric lighting. Where a building is expected to have heating, mechanical ventilation or air conditioning installed, it will require an EPC based on the assumed fit out.

A building can either be:

- the whole of a building; or
- part of a building, where the part is designed or altered to be used separately.

A car park, for example, open at the sides with lighting, would not constitute a building for the purposes of requiring an EPC.

In terms of the requirement for an EPC, buildings can have multiple tenancies, differing lease agreements, various sub-letting arrangements and different uses (eg mixed retail, residential and office accommodation). **In general terms an EPC should reflect the accommodation being sold or let.** In practice this means any EPC provided should reflect the energy performance of the space being offered for sale or let.

To determine the requirement for an EPC in a building, the following should be considered:

- **Selling or letting a building as a whole**
  - An EPC can be prepared for the whole building in these circumstances, even if that building is divided into parts designed or altered to be used separately with separate heating systems.

- **Selling or letting part of a building**
  - **Buildings with a common heating system**. If a building has a common heating system, then the seller or prospective landlord has a choice[1]:
    - to prepare (or make available) an EPC for the whole building; or
    - to prepare (or make available) an EPC for a part designed or altered to be used separately being offered for sale or let. The assessment should be based on energy use per square metre for the whole building. Such an EPC may also be based on an assessment of a similar representative unit in the same building.

  - **Buildings with separate parts and separate heating systems**. An EPC should be prepared (or made available) for each part of a building that is being offered separately for sale or let. The EPC should reflect the services in those part(s) being offered for sale or let. Again, the EPC may also be based on an assessment of a similar representative unit in the same building.

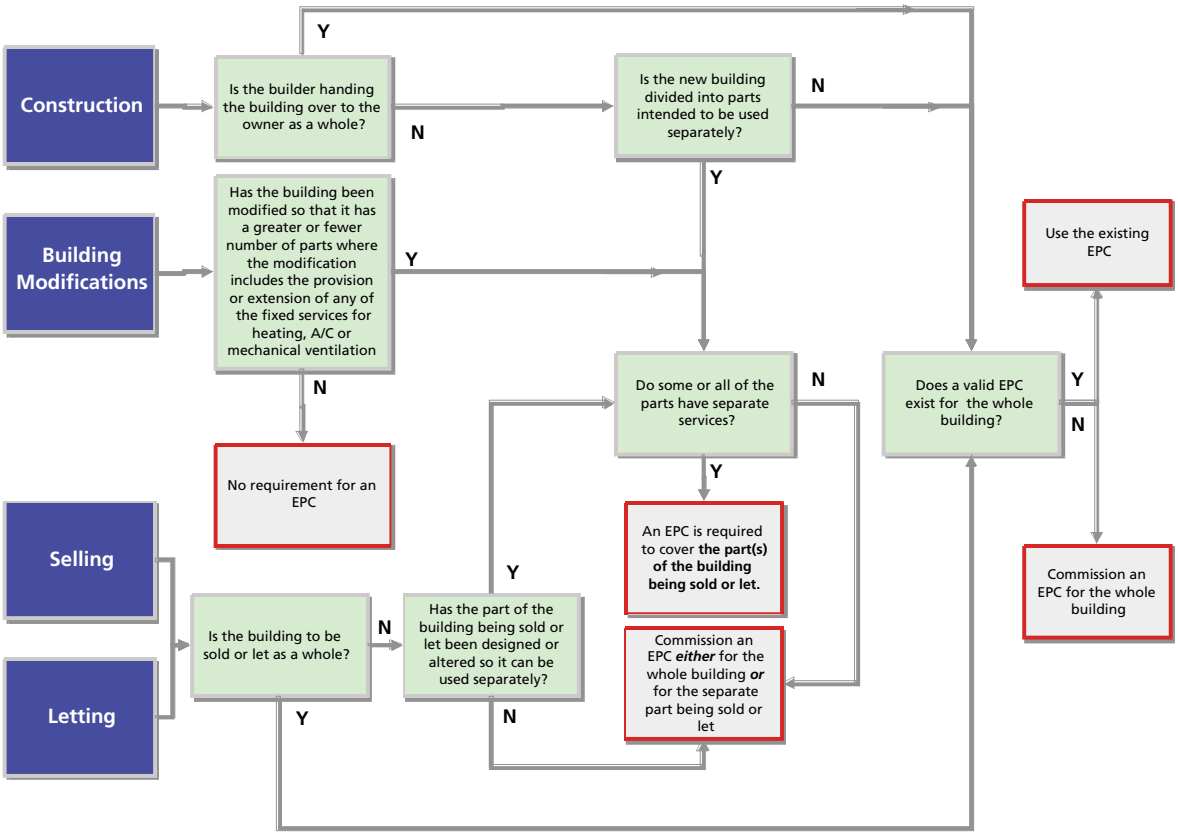
[1] excluding any dwellings. Every dwelling apartment requires its own EPC. Refer to 4.2.1

- **Shared or communal areas in buildings with independent heating systems**
  - In buildings where there is an independently conditioned shared or communal area and where the purpose of the conditioned space is solely or mainly for access to a unit (or part of a building designed or altered to be used separately), the energy consumption of the shared space is allocated to each unit in accordance with the proportion of the floor area of each unit to the total useful floor area of all the units.

Some practical examples include:

- DIY store with warehouse, retail space and offices. If the whole accommodation is offered for sale or let for use together, then an EPC should reflect the whole building
- Industrial estate with units in blocks– if each unit has a separate heating system then each unit should have its own EPC for that unit. If the units share a heating system they could either have a single EPC for all the units or have an individual EPC for each unit. An EPC for an individual unit may also be based on an assessment of a similar representative unit in the same block
- Office block –If the block is served by a common heating system there is a choice to make available either an EPC for the whole building or an EPC for the part being offered for sale or let. If there are separate heating systems, an EPC must be prepared for the part of the block being offered for sale or let, based on the system that serves it. As before this may be based on an assessment of a similar representative unit in the same block.

Use the flowchart below to help determine whether your building requires an EPC:



Section 4 provides guidance on a number of common situations and how the regulations may apply.

It is the action of selling, letting or construction that triggers the requirement for an EPC. Therefore existing occupiers and tenants will not require an EPC unless they sell, assign or sublet their interest.

1.3 When Energy Performance Certificates are required

From **6 April 2008** those buildings with a total useful floor area greater than 10,000m^2 (see glossary of terms for a definition) will require an Energy Performance Certificate on construction, sale or let.[2]

From **1 July 2008** those buildings with a total useful floor area greater than 2,500m^2 (see glossary of terms for a definition) will require an Energy Performance Certificate on construction, sale or let.[2]

From **1 October 2008**, all remaining buildings that are not dwellings will require an Energy Performance Certificate on construction, sale or let.[2]

EPCs for the sale or letting of buildings other than dwellings will be valid for 10 years.

1.4 Buildings requiring a Display Energy Certificate (DEC)

Public authorities, and institutions providing public services to a large number of persons, who occupy space in a building with a total useful floor area greater than 1000m^2, must display a valid display energy certificate ("DEC") at all times and have a valid advisory report in their possession.

A DEC shows an **operational** rating which conveys the actual energy used by the building as opposed to an EPC which conveys an **asset** rating showing the intrinsic performance of the building.

Only public authorities or public institutions (those providing services traditionally associated with local or national government) **occupying** a building must display a DEC. Other private occupants of the same building are not required to display a DEC.

If the building is sold or let, it will additionally require an EPC. If the building has an EPC, the asset rating will need to be included on the DEC. Further guidance on DECs is available see www.communities.gov.uk/epbd

[2] For the purposes of the Regulations, the building size to be considered will be the size of any part designed or altered to be used separately that contains the area being sold or let."

1.5 Situations where an EPC is not required

EPCs are not required on construction, sale or rent for:

- places of worship
- temporary buildings with a planned time of use less than two years (see glossary of terms)
- stand alone buildings with a total useful floor area of less than 50m^2 that are not dwellings
- industrial sites, workshops and non-residential agricultural buildings with low energy demand (see glossary of terms for a detailed description).

EPCs are not required on sale or rent for buildings due to be demolished. The seller or landlord should be able to demonstrate that:

- the building is to be sold or let with vacant possession; and
- the building is suitable for demolition and the resulting site is suitable for redevelopment; and
- they believe, on reasonable grounds, that a prospective buyer or tenant intends to demolish the building (eg on evidence of an application for planning permission).

Chapter 2

What are Energy Performance Certificates

2.1 What is an EPC and what does it mean?

The EPC looks broadly similar to the energy labels now provided with vehicles and many appliances. Its purpose is to indicate how energy efficient a building is. The certificate will provide an energy rating of the building from A to G, where A is very efficient and G is the least efficient. The better the rating, the more energy-efficient the building is, and the lower the fuel bills are likely to be. The energy performance of the building is shown as a Carbon Dioxide (CO_2) based index.

Each energy rating is based on the characteristics of the building itself and its services (such as heating and lighting). Hence this type of rating is known as an asset rating.

The asset ratings will reflect considerations including the age and condition of the building. It is accompanied by a recommendation report, which provides recommendations on using the building more effectively, cost effective improvements to the building and other more expensive improvements which could enhance the building's energy performance.

2.2 What an EPC for a non-dwelling contains

In addition to the asset ratings, EPCs must convey several other key pieces of information:

Reference information

This includes the unique certificate reference number (as stored in the central register) the date of issue of the certificate and when it is valid until.

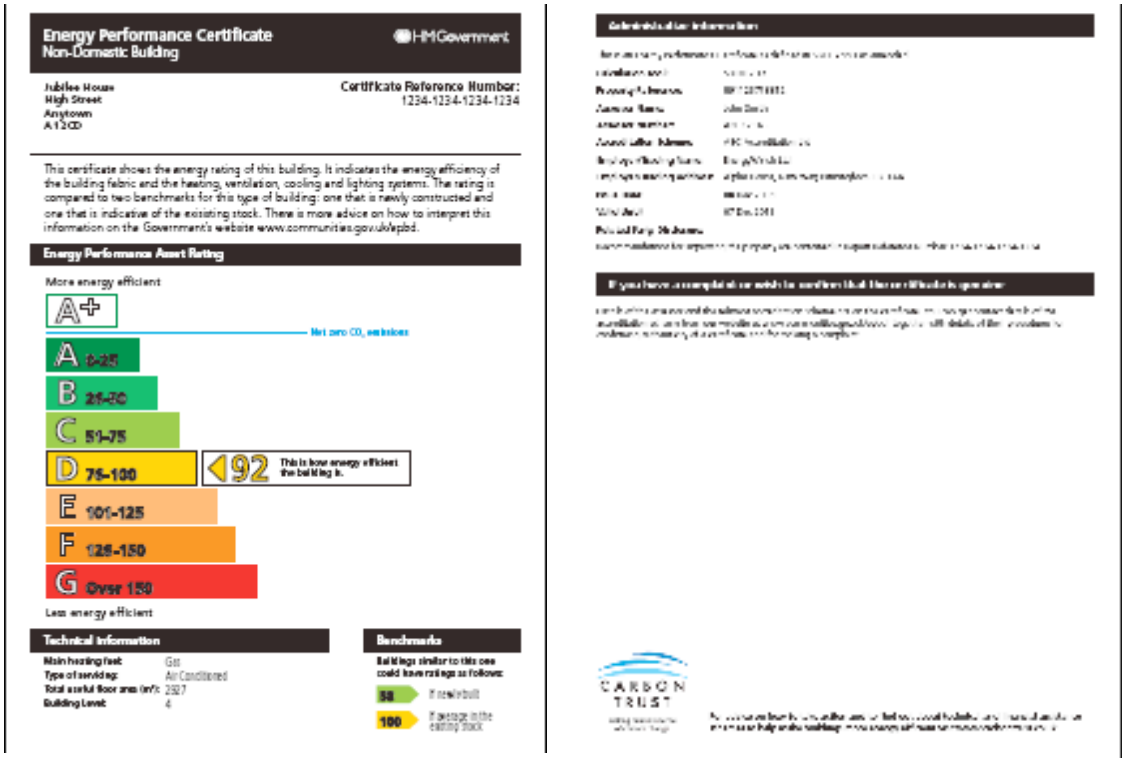
Energy assessor details

This includes the assessor's name, accreditation number, company name (or trading name if self employed) and accreditation scheme.

Information on how to complain or how to confirm that the certificate is genuine

The certificate will provide information on how to register a complaint about an unsatisfactory EPC and how to check the certificate is authentic.

The certificate is accompanied by a report which includes cost-effective recommendations to improve the energy ratings. For each improvement indicative paybacks are listed.



2.3 Registering EPCs

EPCs for non-dwellings are stored in a national register. The national register is the official place for the storage of all EPCs for non-dwellings and is the single source of EPC information for a building. Having a register helps to protect consumers. Those legitimately in possession of an EPC, ie building owners, tenants and their agents, can verify the authenticity of a certificate by checking it against the contents of the register.

Once EPCs have been registered they cannot be altered. However, EPCs that are in dispute may be annotated on the register to show that they are under investigation. As data is kept on the register for 20 years, more than one EPC may be stored over a number of years for one building. An EPC may be valid for up to 10 years. If there are other certificates for the building on the register that are less than 10 years old only the most recent certificate will be valid.

Energy assessors (through their Accreditation Schemes) lodge each EPC after they produce it, and each is given a unique certificate reference number. Access to the database is restricted, so only those who have the unique reference number can access the certificate registered for a particular building.

The register is operated by Landmark Information Group Limited.

Chapter 3

Obtaining an Energy Performance Certificate

3.1 Responsibilities for providing an EPC on construction or modification of a non-dwelling

When a building being **constructed** is physically complete**,** it is the responsibility of the **person carrying out the construction** to give an EPC and recommendations report to the **owner of the building** and to notify Building Control that this has been done. Building Control will not issue a certificate of completion until they are satisfied this has been done.

If a building is **modified** to have more or less parts than it originally had and the modification includes the provision or extension of fixed services for heating, air conditioning or mechanical ventilation (ie those services that condition the indoor climate for the benefits of the occupants) then an EPC will be required. When the modifications are physically complete, it is the responsibility of the **person carrying out the modification work*s*** to give an EPC and recommendations report to the **owner of the building** and to notify Building Control that this has been done. Building Control will not issue a certificate of completion until they are satisfied this has been done.

3.2 Responsibilities for providing EPCs when selling or letting a non-dwelling

As soon as a building is in the process of being offered for **sale**, it is the responsibility of the **seller** to make available an EPC to prospective buyers.

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.

It is the responsibility of the seller or landlord offering the accommodation for sale or let to make an EPC available for their building. 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 seller or landlord is responsible for ensuring there is an EPC for the building, or part of the building, being sold or 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 dutyholder at any time up to six months after it was required, it would be prudent for sellers or landlords to retain their reference number so that a copy of an EPC can be requested from the register if required.

For those considering selling, letting or sub-letting a building, it is recommended that the availability of an EPC is ensured at an early stage to be ready for any future transaction. There are two ways this could be achieved:

- negotiate with the head landlord to get an EPC for the whole building where there is a common heating system (which may be more economic for all concerned)
- get an EPC for the part of the building you are letting or sub-letting. If you are letting a floor, for example, in a building with a common heating system, you may get an EPC done for just that floor. If you occupy a part designed or altered to be used separately and there is no common heating system you will need a separate EPC anyway.

It is the duty of every person with an interest in, or in occupation of the building to co-operate with any seller or prospective landlord as far as is necessary to enable them to comply with any duty under the Regulations to make available an EPC, and allow access to any energy assessor they appoint.

3.3 Transactions not considered to be a sale or let

The purpose of providing an EPC during the sale or letting process is to enable potential buyers, tenants or building occupiers to consider energy performance of a building as part of their investment. Certain transactions would not amount to a sale or let to a new owner or tenant and would therefore not require an EPC. Examples would include:

- lease renewals or extensions
- compulsory purchase orders
- lease surrenders.

There may be other types of transaction that it might be argued do not require an EPC, for example not-for-value transactions, but this will depend on the individual circumstances of any case.

3.4 Responsibilities for conducting energy assessments

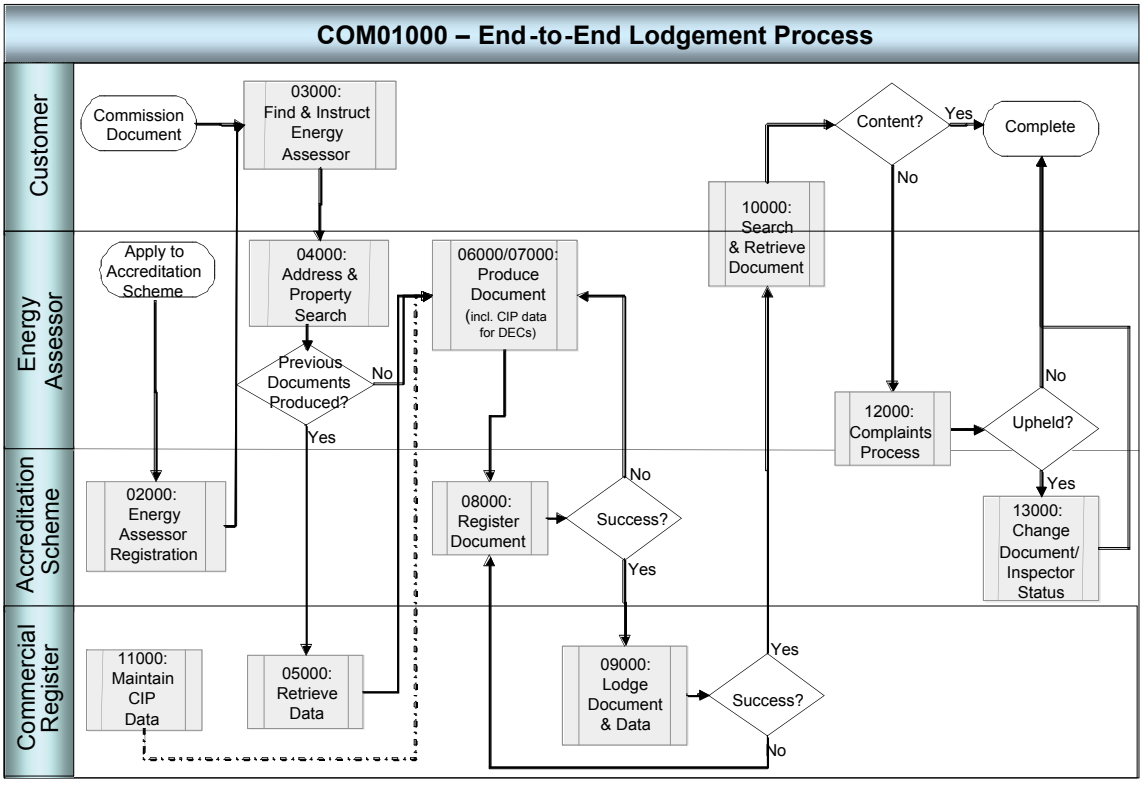
The people able to **conduct** energy assessments and produce EPCs must be accredited energy assessors. Energy assessors must be members of an accreditation scheme, and can be self employed, employees of service organisations such as estate agents, surveyors or energy companies, or employees of the landlord or owner.

Energy assessors must act in an independent manner and be a member of a Government approved accreditation scheme. Energy assessors are responsible for conducting an energy assessment, producing an EPC and lodging the EPC with their accreditation scheme.

The accreditation scheme is responsible for ensuring certificates are properly registered and also for the quality of the certificate you receive. Section 3.7 provides more information about accreditation schemes and section 6 provides more information if you have a complaint or concern about an energy assessment or an EPC.

3.5 Producing Energy Performance Certificates

The process for producing an EPC for a non-dwelling is as follows:



Note: CIP – Central Information Point (provides weather data etc. for use in energy calculations for DECs).

Once an energy assessor has been commissioned to produce an EPC, there are three main steps to performing the assessment, which are:

1. Gathering the relevant information about the building

2. Analysing the information and identifying different zones of the building

3. Entering the information into an approved software programme. The appropriate methods for commercial buildings are SBEM – Simplified Building Energy Model or DSM – Dynamic Simulation Model (even if the building was originally used for residential accommodation).

During the assessment the energy assessor will collect information about the building. This will include plans, dimensions of the building, its uses, the number of floors, amount and type of glazing (ie single or double glazing), heating systems and fuel used.

This information will be fed into an approved software programme using a Government approved energy assessment method. The software produces the certificate and the recommendation report for the building.

The energy assessor will then record the certificate onto the national register via his or her accreditation body and provide the seller or prospective landlord with a copy.

The EPC is now ready to be given to new building owners or made available to prospective buyers or tenants.

3.6 Collecting the information required for an Energy Performance Certificate

The energy assessor will need to understand the internal layout of the building and for what purposes it is designed to be used. This is to understand the energy demands of each individual space (zone) in accordance with its designed use.

The information that will be required to produce an EPC includes:

- the individual spaces or zones in use within the building, and their dimensions (either as verified from plans or as measured). This information is most readily provided by building plans
- the activities conducted within the zones. Examples of zones include retail space, office space, kitchens, storage etc
- the heating and ventilation services for each zone (including type of system, metering, controls, fuel used etc.)

- the lighting and controls used for each zone
- the construction of the fabric of the building and thermal efficiency of the materials used: roof, floors, walls and glazing.

If there are no plans for a building, the energy assessor will need to survey the building and gather the appropriate information. If you have up-to-date information and plans for your building this process will be less time-consuming. The energy assessor is responsible for ensuring the information used in the energy calculations is accurate and, even where detailed plans are available, may need to validate this information by making a site inspection.

3.7 Energy assessor accreditation

Government approved accreditation schemes monitor the quality of energy assessments and EPCs by ensuring energy assessors are competent and possess the appropriate skills to conduct energy assessments. To become a member of an accreditation scheme energy assessors will need to:

- demonstrate their competence, either by having a recognised qualification from an awarding body ***or*** approved prior experience and learning equivalent to the National Occupational Standard requirements
- maintain appropriate professional indemnity cover
- update their skills and knowledge regularly
- participate in the accreditation body's quality assurance scheme
- abide by the schemes advice and guidance.

Energy assessors will need to be qualified for the type of building being assessed. For non-dwelling EPCs,the levels are:

- level 3 – simple, existing non-dwellings: small buildings such as converted houses or doctors surgeries (using SBEM)
- level 4 – new and existing non-dwellings: eg small purpose built office buildings (using SBEM)
- level 5 – new and existing complex non-dwellings: eg large office buildings or factories (using modelling tools eg DSM).

Approved Accreditation bodies for energy assessors for non-dwellings are:

- BESCA/HVCA
- BRE
- Chartered Institute of Building Services Engineers
- Elmhurst
- EPC Limited
- National Energy Services
- Northgate
- Quidos
- Royal Institution of Chartered Surveyors
- Stroma

3.8 Using EPCs in commercial transactions

The energy assessor has a duty of care under the Regulations, both to the seller or prospective landlord and to the prospective buyer or tenant, to carry out an energy assessment on a building with reasonable care and skill. This duty is enforceable for as long as the EPC subsequently produced remains valid.

Once an EPC has been produced for a building, it is valid for 10 years or until a newer EPC is produced. The EPC will be stored in the central register and subsequent owners or tenants can make the EPC available in the course of any transaction while it remains valid.

If an energy assessor is proven to have been in breach of his duty under the Regulations or negligent in any other way, this is a matter that can be taken up in the first instance with their accreditation scheme before recourse to an action in civil law. Energy assessors will have suitable professional indemnity cover against the eventuality that any person to whom they have a duty may suffer loss as a result of their actions.

If an EPC is subsequently alleged to have been produced fraudulently, this is a matter for criminal law, to be pursued by making a complaint to the Police.

Chapter 4

Applying the regulations in practice

4.1 Providing information to prospective buyers and tenants

A valid EPC and recommendation report must be made available *free of charge* by the seller or landlord to a *prospective buyer or tenant* when non-dwellings are sold or let. This information should be provided at the earliest opportunity and no later than:

- when any written information about the building is provided in response to a request for information received from the prospective buyer or tenant; or
- when a viewing is conducted; or
- in any event, before entering into a contract to sell or let.

Whilst the Regulations state that an EPC should be provided free of charge to prospective buyers or tenants, a landlord may organise an EPC for the whole building and may be able to recover the cost of *producing* a certificate via the service charges. However, this will depend on how the lease is drafted. The Code of Practice on Service Charges (published by RICS) may provide further guidance:

www.servicechargecode.co.uk

An EPC does not have to be made available if:

- the seller has reasonable grounds to believe that the prospective buyer or tenant is unlikely to have sufficient funds to purchase the building or is not genuinely interested in buying or renting the building; or
- the seller or tenant is unlikely to be prepared to sell the building to the prospective buyer (although this does not authorise unlawful discrimination).

4.2 Building use, tenancy arrangements and the requirements for EPCs

The use and occupancy patterns of a non-dwelling can be complex. This section highlights a number of situations that frequently occur and the subsequent requirements for an EPC.

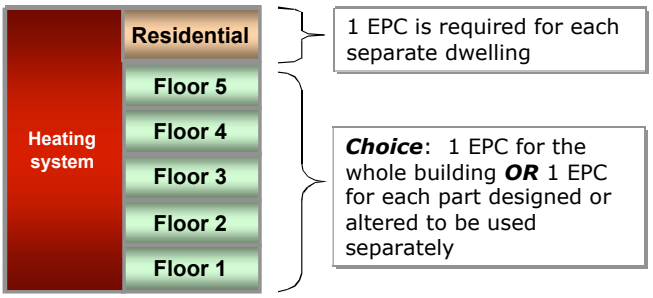
EPC certification for units or parts of a building designed or altered for separate use may be based on the assessment of another **representative** unit or part in the same block.

4.2.1 Offices blocks and mixed use buildings

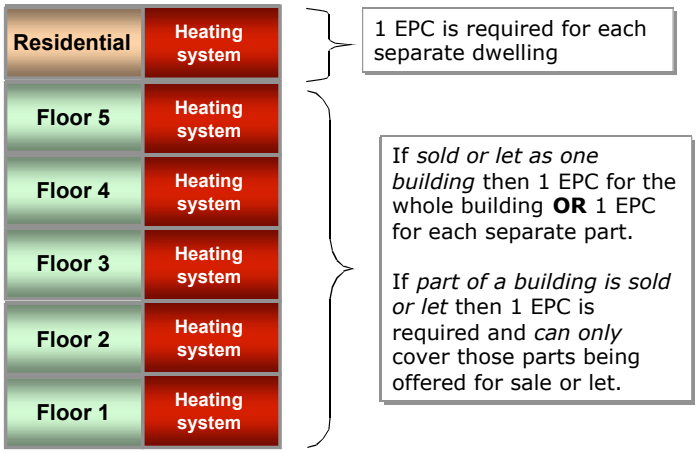
Office space can be let floor by floor, a number of floors or even part of a floor. Any EPC made available should reflect the accommodation offered for let. If the space offered is not conditioned, then an EPC will not be required. If part of a floor is offered for let and an EPC is prepared for that space, it will be based on the services applicable to that space (ie either common to the whole building where there is a common heating system, or those services serving the part in which the space to be let is situated) and will need to take account of the energy use of any common spaces.

A.1. BLOCK WITH COMMON HEATING SYSTEM

If an office building has a common heating system, the seller or landlord has a choice of providing either a common EPC for the whole building (minus any separate dwellings within the block, which will each require its own EPC) or an EPC for each part designed or altered to be used separately. Where individual EPCs are prepared, those for non-dwellings should reflect energy use on a square metre basis for the whole building (minus any dwellings), unlike those for dwellings which should relate to the dwelling alone. An EPC for a single unit or apartment may be based on an assessment of a similar representative unit or apartment in the same block.



A.2. BLOCK WITH INDEPENDENT HEATING SYSTEMS

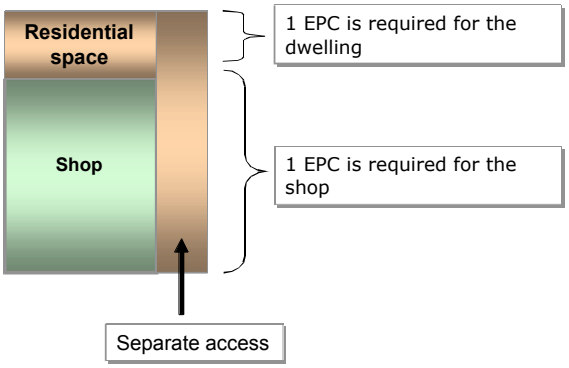


Every separate dwelling will require its own EPC. The energy calculation method for dwellings is SAP or RdSAP, and the energy assessors carrying out this work must be accredited to carry out assessments on dwellings. The non-dwelling part of the building should be assessed using either SBEM or DSM and the energy assessor must be accredited to carry out assessments on non-dwellings. It is appropriate that any communal areas (including those serving the residential space) are assessed using SBEM or DSM as the methodology used for dwellings, SAP, will only cover a dwelling.

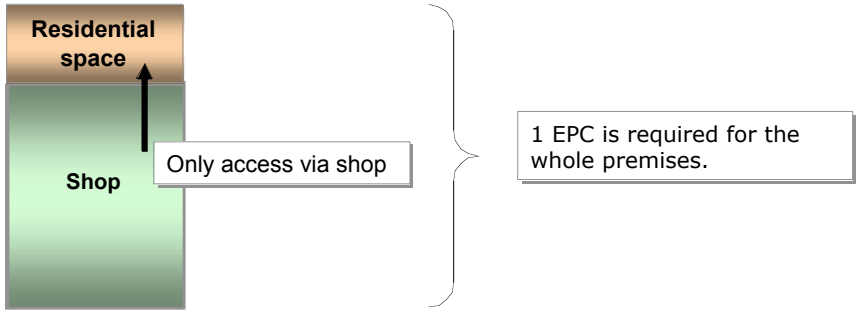
Again, an EPC for a single unit or apartment may be based on an assessment of a similar representative unit or apartment in the same block.

A.3. SHOP WITH ACCOMMODATION ABOVE

In the example below the residential space above the shop has separate access and is clearly designed to be used as a dwelling separately from the conduct of business in the shop, whether the two parts are sold or let together or separately. In this case the residential space should have its own EPC (using SAP or RdSAP as appropriate).



In the example below the residential space above the shop can only be accessed via the shop. In this case the upper part is not designed or altered for use as a separate dwelling and should therefore be considered and assessed with the shop as a single building, for which SBEM will be more appropriate.



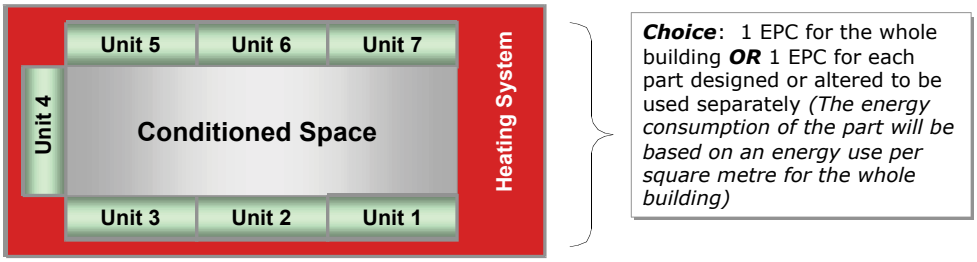
4.2.2 Shopping centres, retail units and concourses

Any standalone units in the following examples that are less than 50m^2, will not require an EPC.

Again, an EPC for a single unit may in all cases be based on an assessment of a similar representative unit in the same block.

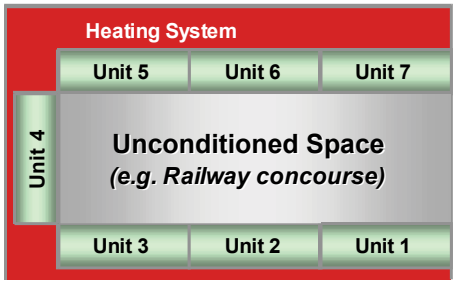
A. Centres with common heating systems

A.1. CENTRES WITH CONDITIONED CENTRAL SPACE



In the example above if a unit does not have its own heating and it does not directly access the concourse or mall (ie does not share conditioning), then it will not require an EPC as it will not be considered to be a building, for the purposes of the EPBD Regulations.

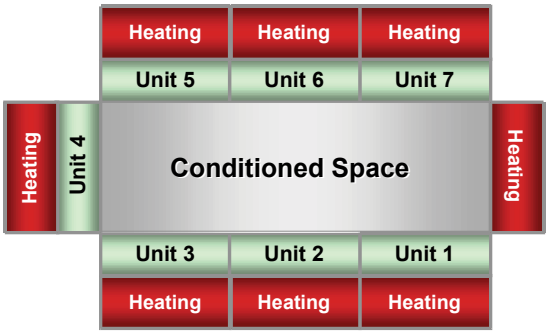
A.2. CENTRES WITH UNCONDITIONED CENTRAL SPACE



Choice : 1 EPC for the building (which would include all the conditioned units and exclude the unconditioned space ***OR*** 1 EPC for each part designed or altered to be used separately (could be for each unit)

B. Centres with independent heating systems

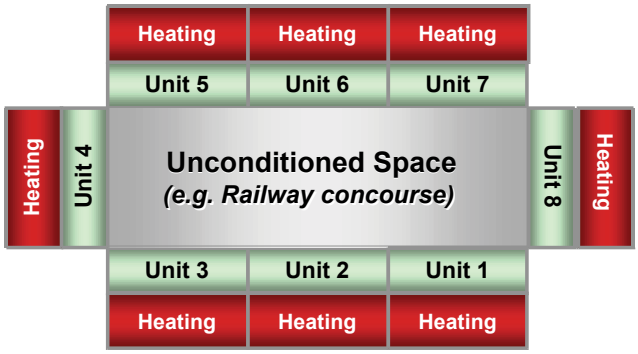
B.1. CENTRES WITH CONDITIONED CENTRAL SPACE



1 EPC for the whole building *if it is being sold or let as one building.*

1 EPC for each unit if it is being sold or let *(which would include the energy use of the fixed services for the unit plus a proportion of the energy use for the shared conditioned areas where its purpose is solely or mainly for access to the unit. This will be in the ratio of total useful floor area in the unit to total useful floor area of the all the units)*

B.2. CENTRES WITH UNCONDITIONED CENTRAL SPACE

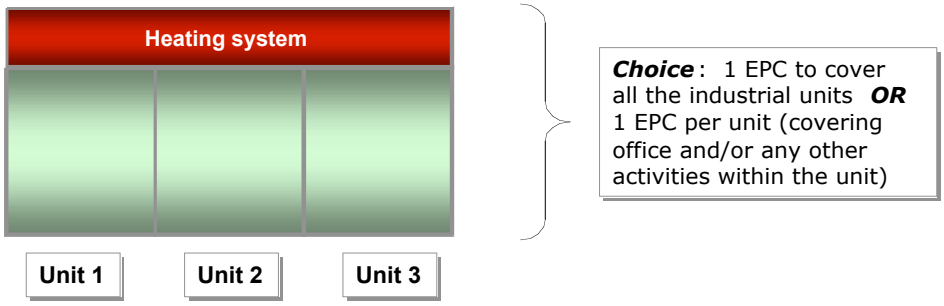


1 EPC is required for each unit. Unconditioned space will not require an EPC.

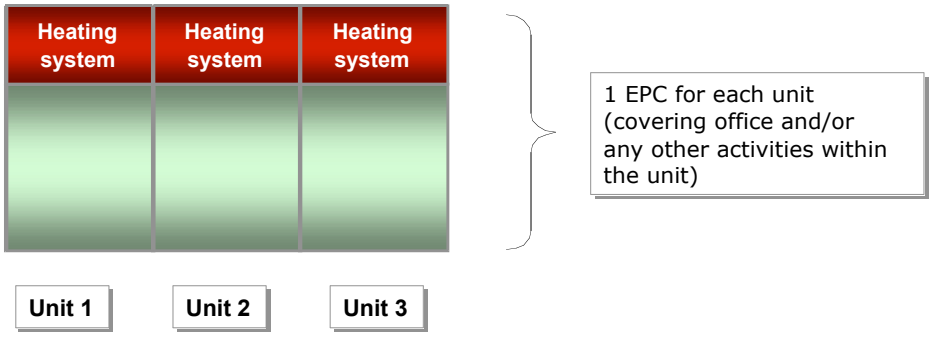
4.2.3 Industrial units in blocks

Any standalone units that are less than 50m², will not require an EPC.

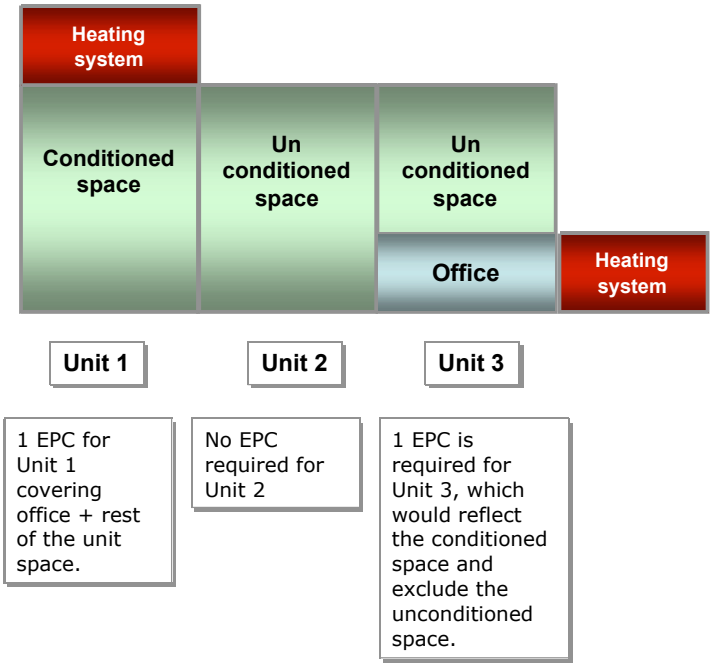
A.1. UNITS WITH A COMMON HEATING SYSTEM



A.2. UNITS WITH INDEPENDENT HEATING SYSTEMS



A.3. UNITS WITH A VARIETY OF HEATING SYSTEMS AND BOTH CONDITIONED AND UNCONDITIONED SPACE

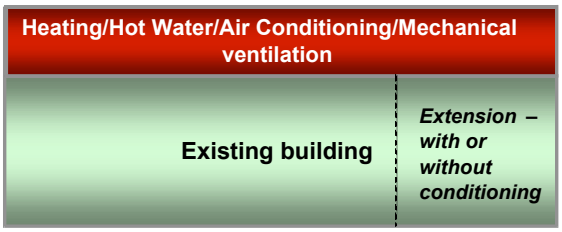


4.2.4 Modifications to a building

The EPB Regulations have modified Regulation 17E of the Building Regulations so that if the building is modified so that it will have more or less parts that are designed to be used separately, and the modification includes the provision or extension of any of the fixed services for heating, hot water, air conditioning or mechanical ventilation, then an EPC must on completion of the work be provided to the owner of the building by the person carrying out the work).

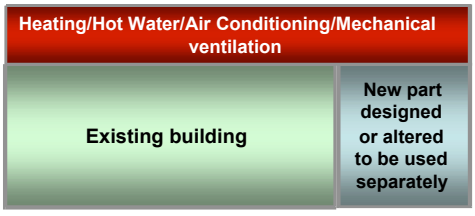
An internal refit with new heating, hot water, air conditioning or mechanical ventilation etc., would not trigger the requirement for an EPC, unless the building were also converted so as to comprise more or less parts for separate use. Any refit will, however, be subject to such of the Building Regulations as are applicable to the work.

A.1. BUILDING WITH EXTENDED CAPACITY BUT WITH NO PARTS ADDED OR REMOVED



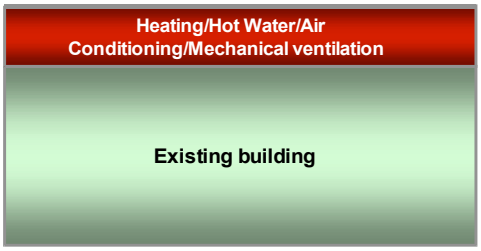
Building has been extended BUT **NO** part(s) added or removed **PLUS** heating/hot water/ air conditioning or mechanical ventilation = **NO EPC required.** *Work may need to comply with Building Regulations.*

A.2. BUILDING WITH EXTENDED CAPACITY AND NEWLY DIVIDED INTO MORE OR FEWER PARTS- EXTENDED FIXED SERVICES



Building has been extended **with** parts added or removed **AND provision made for** heating/hot water/ air conditioning or mechanical ventilation = **EPC is now required for the building.**

A.3. BUILDING WITH AN INTERNAL RE-FIT



Building has had a complete internal refit. New provision made for heating/hot water/air conditioning or mechanical ventilation + **NO** parts added or removed = **NO EPC is required.** *Work may need to comply with Building Regulations ADL2A – Conservation of fuel & power.*

In the case above, there is no requirement for an EPC. However where the accommodation has been renovated eg upgraded heating or change of use, it would be preferable to have an updated EPC, even if not required.

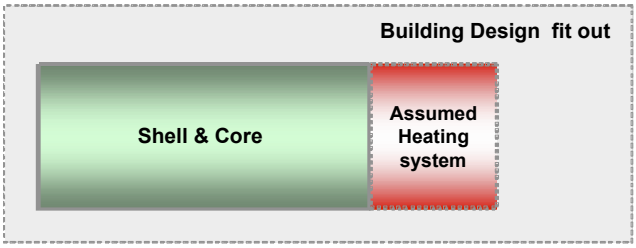
A.4. BUILDING CONVERTED INTO MORE OR FEWER PARTS

Building is the same size. Modification has created new part **AND provision made for** heating/hot water/air conditioning or mechanical ventilation = **EPC is now required for the building.**

In this example the building is the same size but has more or fewer parts designed or altered to be used separately, and the modification includes the provision or extension of heating/hot water/air conditioning or mechanical ventilation. It now requires an EPC.

4.2.5 Shell and core buildings

For shell and core buildings not all the services will be installed (especially lighting, mechanical ventilation and cooling) at the point where the building is sold or let.



An EPC will be provided for the assumed fit out. If new owner/tenant fits out the building differently, they should be aware of the energy performance of the installed services.

Units that are let as bare structures without services at all, but with gas (or electric) meters, will nonetheless require an EPC as there is the expectation that energy will be used to condition the indoor climate.

The EPC should be based on the maximum design fit out specification as used for compliance with Building Regulations. If the building is sold or let in whole or in part after shell and core completion, the seller/landlord can use the EPC obtained from the builder for the whole building, subject to there being a common heating system, or commission particular EPCs relevant to each let.

4.3 Situations where an EPC may be unobtainable

The relevant person will not be liable to a penalty charge notice:

a) in a sale or rental where a request for an EPC has been made at least 14 days before required and despite all reasonable efforts and enquiries, a valid EPC is not in the possession or control of the seller or prospective landlord. The EPC should nonetheless be made available to prospective buyers or tenants as soon as the dutyholder has it; or

b) in a rental:

- where a prospective tenant was seeking to rent the building in an emergency requiring his urgent relocation
- the landlord did not have in his possession a valid EPC at the time of letting
- there was insufficient time for the prospective landlord to be reasonably expected to have obtained an EPC before letting the building; and
- the landlord has given a valid EPC to the tenant as soon as reasonably practicable after letting the building.

Chapter 5

Assessing the energy performance of a building

5.1 What contributes to the energy performance of a building

Energy rating a building is a complex calculation that is based on a combination of factors. The key factors are:

- the type of construction of the building (including walls, roofs, floors and glazing)
- whether parts (zones) of the building are used for different purposes eg office, factory etc, and the occupancy profile for each zone
- heating, cooling, ventilation and hot water systems used
- lighting.

The energy performance of non-dwelling is shown as a CO_2 based index.

The CO_2 based rating a building receives depends on the energy used for space heating, water heating, ventilation and lighting, less any energy generated from energy generation technology installed in the building (such as solar water heating). The lower the number (on a scale of 0-150+), the lower the typical CO_2 emissions.

The rating is adjusted for the total useful floor area of a building (see glossary of terms for a full definition) so it is independent of size for a given type of building.

5.2 What an energy assessment involves

The SBEM or DSM software assesses the energy demands of each individual space in the building in accordance with the activity conducted within that space (examples being office space, kitchens, storage space etc). Different activities can result in different periods of occupancy and different required temperatures, as well as varying requirements for lighting and hot water supply. The energy consumption and carbon dioxide emissions are calculated by considering these demands in relation to the details of the building services.

The energy assessor will need to understand the internal layout of the building and for what purpose it is used. The energy assessor will need to validate (via plans and/or physical survey) zone distances, thermal insulation and building services.

The SBEM software will use the information provided by the assessor and standard performance tables and will produce the EPC and recommendation report.

5.3 Recommendations with an Energy Performance Certificate

The recommendation report that is included with an EPC will help to improve the energy rating of a building. The recommendations only include those improvements that are appropriate for the building that has been assessed. For each recommendation indicative paybacks are noted. The recommendations are provided in four categories those:

- with a short term payback – less than three years
- with a medium term payback – between three and seven years
- with a long term payback – greater than seven years; and
- other recommendations (based on the energy assessor's knowledge).

Chapter 6

Consumer protection and enforcement

6.1 Checking the authenticity of an Energy Performance Certificate

An EPC should be properly recorded, by the energy assessor, in the central register for non-dwellings which contains all EPCs. An EPC is identified by a unique reference number that relates only to your premises.

If you have commissioned an EPC for your building you will receive a copy of the certificate.

If you have been given an EPC and wish to check its authenticity, you can access the register by entering the reference number on the certificate. If you cannot find your certificate in the register or you have any concerns regarding the authenticity of the information contained within the certificate, you should contact the accreditation body of your energy assessor. The energy assessor details, their accreditation scheme and their membership number should be on the certificate.

6.2 Checking the authenticity of your energy assessor

All energy assessors must be accredited.

If you wish to check that an energy assessor is a member of an accreditation scheme, you can do this in two ways:

- verify the credentials of your energy assessor on-line via www.ndepcregister.com which provides a national register of accredited energy assessors. This will allow you to search on the energy assessors name or accreditation scheme membership number
- ask your energy assessor which accreditation scheme they are a member of (and their membership number). The accreditation scheme can confirm that your energy assessor is accredited to practice as an energy assessor.

If you want to find a suitably accredited energy assessor in your area to provide you with an EPC, use www.ndepcregister.com This will allow you to search for a list of accredited assessors in your area that you can contact to do your energy assessment. Ensure the assessor is qualified for the type of building being assessed:

- level 3 – small buildings such as converted houses or doctors surgeries
- level 4 – such as small purpose built office buildings
- level 5 – such as large office buildings or factories.

There are approved accreditation schemes for Non-dwelling Energy Assessment run by:

- BESCA/HVCA
- BRE
- Chartered Institute of Building Services Engineers
- Elmhurst
- EPC Limited
- National Energy Services
- Northgate
- Quidos
- Royal Institution of Chartered Surveyors
- Stroma

6.3 Protecting Energy Performance Certificate information

The information in an EPC is about a building and is provided to the relevant person (usually the landlord or owner of the building) by the energy assessor. Access to the EPC in the register is via the report reference number on the certificate. Anyone in possession of the report reference number can access the EPC. A seller or prospective landlord or those acting on their behalf may disclose the EPC or information from it to other parties.

The Regulations, however, protect the EPC and the underlying information from unauthorised disclosure to a **third party** eg by a company using the EPC without permission to market their products. Inappropriate use of that information is liable on conviction to a fine. The EPC, recommendation report and any information derived from them can only be disclosed in the following situations:

- by an owner or tenant, or those acting on their behalf
- for the purposes of assisting prospective buyers or tenants make decisions on whether to buy or rent your building

- to accreditation schemes in fulfilling their accreditation functions
- to enforcement bodies as part of their duties in enforcing the new Regulations
- to the Secretary of State for monitoring the application, compliance and enforcement of the new Regulations and for statistical or research purposes
- in complying with obligations under the Regulations or under the law relating to Home Information Packs
- for the purposes of preventing or detecting crime, apprehending or prosecuting offenders, establishing, exercising or defending legal rights or complying with a court order.

6.4 Complaints

If you have a complaint about the availability or quality of an EPC or about an energy assessor or energy assessment, you should contact the following people:

1. EPCs on sale or rental

For complaints regarding the availability and validity of an EPC for sale of a marketed building, contact your local Trading Standards Officers. Trading Standards Officers have the power to act on your complaints.

2. EPCs for newly constructed or modified properties

For complaints regarding the availability and validity of EPC's produced by the builder when construction work is completed, contact Building Control at the relevant local authority.

3. Quality or accuracy of the EPC and its recommendations

For complaints regarding the quality and accuracy of the EPC and the recommendation report, contact the accreditation body of the energy assessor who produced the EPC. Contact details can be found on the EPC.

4. Complaints regarding an energy assessor or any aspects of the energy assessment

For complaints regarding the energy assessor or the energy assessment, contact the energy assessor in the first instance and if the matter is not resolved, contact the accreditation body of the energy assessor who produced the EPC. Contact details can be found on the EPC.

If you suspect that your EPC is subject to fraud, then the matter should be referred to the police.

6.5 Penalties for not having an EPC

Local authorities (usually by their Trading Standards Officers) are responsible for enforcing the requirement to have an EPC on sale or let of a building. Failure to provide an EPC when required by the Regulations means you may be liable to a civil penalty charge notice. Trading Standards Officers may act on complaints or undertake investigations. They may request you to provide them with a copy of your EPC and recommendation report. If asked, you must provide this information within seven days of the request or be liable to a penalty charge notice. A copy of an EPC can be requested at any time up to six months after the last day for compliance with the obligation to make it available.

The penalty for failing to make an EPC available to any prospective buyer or tenant when selling or letting non-dwellings is fixed, in most cases, at 12.5 per cent of the rateable value of the building, with a default penalty of £750 where the formula cannot be applied. A formula is used as the costs of producing an EPC for non-dwellings are expected to vary according to the size, complexity and use of the building. The range of penalties under this formula are set with a minimum of £500 and capped at a maximum of £5,000.

If you are issued with a penalty charge notice and you believe it should not have been issued you can request a review. If you are not satisfied with the outcome of the review you may appeal to the county court within 28 days after you received notice confirming the penalty charge notice from the local authority.

You have a defence against a penalty charge notice if you commissioned an EPC at least 14 days before it was required and despite all reasonable efforts you have not received a valid EPC at the relevant time. You will need to provide evidence that a proper request was made to an accredited energy assessor.

Chapter 7

Questions and Answers

How long are EPCs valid for?

An EPC for a non-dwelling will be valid for 10 years or until replaced with a newer one.

How much will an EPC cost?

The price of EPCs will be set by the market and market demand. It is likely in practice that the cost will vary according to a number of factors including size, location and age of the building.

Do I need a new EPC every time I let my building?

As long as a valid EPC exists for the building, you can provide this to prospective tenants. An EPC is valid for 10 years and during this period you can provide the same EPC to prospective tenants. This EPC will no longer be valid if a newer EPC has been obtained.

Do I need a new EPC every time I sell a building?

As long as a valid EPC exists for the building, you can provide this to prospective buyers. An EPC is valid for 10 years and during this period you can provide the same EPC to prospective buyers. This EPC will no longer be valid if a newer EPC has been obtained.

Can a prospective tenant or buyer waive their right to receive an EPC?

The relevant person has a duty to provide an EPC to a prospective buyer or tenant and will be liable to a penalty charge if he fails to do so, irrespective of whether the prospective buyer or tenant purports to waive an entitlement to receive the certificate.

Do I need an EPC if I have exchanged contracts to sell or let before 6 April 08, but have not yet completed the transaction?

The last point at which the duty to make available an EPC may be satisfied is when a prospective buyer or tenant enters into a contract to sell or rent the building ie upon exchange of contracts. In this case the contract has been exchanged before 6 April 08 and the duty to make available an EPC will not arise.

Where can I find an energy assessor?

The accreditation schemes will maintain a list of their members and should be able to provide contact details of assessors local to your area. It is likely that estate agents, energy suppliers and other large companies will also be able to provide EPCs. An energy assessor should always be able to provide details of the accreditation scheme (see the list below) of which they are a member and their membership number.

What software can be used to produce EPCs?

Only software approved by Communities and Local Government can be used to produce EPCs.

How can I check if my energy assessor is properly qualified?

The accreditation bodies ensure their members are properly qualified and competent to conduct assessments. If you wish to check the accreditation details of your assessor, you should contact their accreditation body who should be able to verify that they are accredited to practice as an energy assessor. The website www.ndepcregister.com only shows properly qualified and accredited energy assessors. You should check they are suitably qualified for the type of building being assessed.

Do I have to act on the recommendations?

You are under no obligation to act on the recommendations for energy improvements to the building. However, taking action on the recommendations is likely to improve the energy efficiency of your building, reduce your fuel bills, cut its carbon emissions and could make it more attractive to potential buyers or tenants in the future.

What if a building is required urgently for rental and there is no time to commission an inspection?

This is permissible under the regulations if there is an emergency requiring a tenant's urgent relocation. An EPC should be provided as soon as practicable after renting out the building.

I'm selling a building for demolition – do I need an EPC?

If you can demonstrate the building is suitable for demolition and the resulting site is suitable for redevelopment and you believe on reasonable grounds that the prospective buyer or tenant intends to demolish the building, you do not need to provide an EPC. Generally this can be demonstrated by having the relevant planning permission or evidence that planning permission has been applied for.

Glossary of terms

A **building** is defined as "a roofed construction having walls, for which energy is used to condition the indoor climate; a building may refer to the building as a whole or parts thereof that have been designed or altered to be used separately".

The **Total useful floor area** is the total area of all enclosed spaces measured to the internal face of the external walls, that is to say it is the gross floor area as measured in accordance with the guidance issued to surveyors by the RICS. In this convention:

a. the area of sloping surfaces such as staircases, galleries, raked auditoria, and tiered terraces should be taken as their area on the plan; and

b. areas that are not enclosed such as open floors, covered ways and balconies are excluded.

Buildings which are **industrial sites and workshops with low energy demand**. These include buildings, or parts of buildings designed to be used separately, whose purpose is to accommodate industrial activities in spaces where the air is not conditioned. Activities that would be covered include foundries, forging and other hot processes, chemical process, food and drinks packaging, heavy engineering and storage and warehouses where, in each case, the air in the space is not fully heated or cooled. Whilst not fully heated or cooled these cases may have some local conditioning appliances such a plaque or air heaters or air conditioners to serve people at work stations or refuges dispersed amongst and not separated from the industrial activities.

Non-residential agricultural buildings with low energy demand include buildings, or parts of buildings designed to be used separately, that are heated for a few days each year to enable plants to germinate but are otherwise unheated.

SBEM – Simplified Building Energy Model
SBEM is a computer program that provides an analysis of a building's energy consumption. The SBEM tool is designed to cover buildings that are not dwellings. It has been adopted by government as part of the UK national methodology for calculation of the energy performance of buildings. It is used to demonstrate compliance for dwellings with Part L of the Building Regulations 2000 (in England and Wales). For more information visit: www.ncm.bre.co.uk/.

DSM – Dynamic Simulation Model
A Dynamic Simulation Model is a software tool that models energy inputs and outputs for different types of building over time. In certain situations, SBEM, will not be sophisticated enough to provide an accurate assessment of a building's energy efficiency. In these cases Government-approved proprietary dynamic simulation models may be used. Communities and Local Government will provide such an approval.

SAP – Standard Assessment Procedure
SAP is the Government's Standard Assessment Procedure for energy assessments of dwellings. The current version of SAP, SAP 2005, has been adopted by Government as part of the England and Wales national methodology for calculation of the energy performance of buildings. It is used to demonstrate compliance for dwellings with Part L of the Building Regulations 2000 (in England and Wales). For further information visit: www.projects.bre.co.uk/sap2005/

RdSAP – Reduced Data Standard Assessment Procedure
RdSAP is the new Government-approved standard assessment procedure for energy assessments of existing dwellings. A full SAP assessment requires many data items that cannot be seen in a survey (or take too long to collect). RdSAP is an industry-agreed standard set of data items and a standard way of inferring the missing data. For more information visit: www.nher.co.uk/pages/insight/rdsap.php or www.rdsap.info.

Annex A

Further Sources of Information

Communities and Local Government
www.communities.gov.uk/epbd
E-mail: help@epbduk.info
Helpline: 0845 365 2468

For consumer complaints
Consumer Direct
www.consumerdirect.gov.uk
Helpline: 08454 04 05 06

For the National register
Landmark Information Group Limited
www.ndepcregister.com

For the accreditation schemes for Non-dwelling Energy Assessment
Accreditation schemes for Non-residential Energy Assessment are operated only by the following organisations:

- BESCA/HVCA
- BRE
- Chartered Institute of Building Services Engineers
- Elmhurst
- EPC Limited
- National Energy Services
- Northgate
- Quidos
- Royal Institution of Chartered Surveyors
- Stroma

For information about energy efficiency, practical advice and grants
The Carbon Trust
www.carbontrust.co.uk

Annex B

Saving energy in your building

You can save up to 20 per cent on your energy bills by managing energy successfully (Source: Carbon Trust). The simple steps recommended by the Carbon Trust include:

Heating

- Are thermostats working and set at the lowest comfortable temperature?
- Are there any cold draughts from windows or doors?
- Are windows and doors open when heating or air conditioning is on?

Lighting

- Are you still using traditional tungsten light bulbs?
- Are lamps, fittings and rooflights clean?
- Are lights switched off if there's sufficient daylight or rooms are not in use?
- Do you have any old large diameter fluorescent tube lights?

In the Office

- Are computers left on overnight?
- Are monitors switched off when not in use, such as during lunch breaks?

In the factory

- Are pumps, fans or compressed air switched off when the equipment they serve is not in use?
- Can you hear compressed air leaks?

Metering and monitoring are at the heart of energy management. Gain actual figures from meters, rather than relying on estimated bills. Look for trends to find out how your energy is being used.

Cut down. Turning off lights and equipment can save around 15 per cent of energy costs. Reducing the temperature by just 1°C can save 8 per cent.

Maintain well. Maximise energy efficiency by regularly servicing plant and equipment.

Stay snug. Heating uses half your office's energy; draught proofing and pipe insulation can reduce heat loss significantly.

Improving the energy rating of a building

There are a number of considerations for improvements to non-dwellings: *(all information provided courtesy of the Carbon Trust):*

Budget and resources for the project
In most cases a business case will be required. This is likely to focus on cost and financial return (eg payback period, based on energy and other cost savings), but may also include other benefits such as meeting regulations, improved environmental performance and corporate reputation, or better staff working conditions.

Consequential Improvements
The Consequential Improvement requirement applies to proposed work in buildings over 1000m^2 which consists of:

- an extension
- the initial provision of any fixed building services such as heating, ventilation or air handling
- an increase to the installed capacity of any such fixed building service.

If the criteria apply then the building will be required to comply with the Building Regulations but only if the work is technically, functionally and economically feasible. For more information if you think you may be affected. See Approved Document L2B at: www.planningportal.gov.uk.

Requirements

Improvements may include the purchase of equipment – do you know the exact make and model you need? If not, you may need to undertake research and talk to suppliers before producing a shortlist of options and then preparing a product/project specification that clearly defines your requirements.

Knowing which suppliers, installers and/or contractor to use

The next step is to identify potential suppliers to approach for quotes. Where possible contact vendors that have been recommended to you. If this is not possible, contact trade associations representing suppliers of the products you require. Alternatively if you know which equipment you need, but are unsure of an installer, contact the equipment manufacturers and ask them to provide you with a recommendation.

Interest free Loans

Energy-Efficiency loans from the Carbon Trust provide the capital to fund energy saving projects and the savings should usually cover the loan repayments. The loans are unsecured and interest free.

Enhanced Capital Allowance (ECA)

The Energy Technology List helps you to select equipment that is energy efficient – and equipment from the list qualifies for Enhanced Capital Allowances, giving you 100 per cent tax relief in the year of purchase.

Energy Efficiency Accreditation Scheme (EEAS)

Sign up for the UK's only independent award recognising achievements in reducing energy use by leading organisations in industry, commerce and the public sector.

Customer Centre at the Carbon Trust

The Carbon Trust provides *independent* advice on energy improvements for buildings and can advise on whether you may be eligible for a grant. You can also contact the Customer Centre on **0800 085 2005** for free advice on implementing your energy saving projects. Experts can discuss your proposed projects – and recommend further products and services to improve your energy efficiency.