

Dickinson
Manser LLP
S o l i c i t o r s

ENERGY PERFORMANCE CERTIFICATES FOR
COMMERCIAL PREMISES

From 1st October 2008 the sale, letting or construction of all commercial properties with a heating or air conditioning system requires the seller, landlord or builder to supply an Energy Performance Certificate (EPC) to the person acquiring the property. The EPC will be valid for up to ten years, assuming no alterations are made to the property, and can be used again in subsequent transactions during that time.

Further, from 4th January 2009, all air conditioning units of over 12kw in commercial premises will have to be inspected at regular intervals of no more than five years.

From 1st October 2008, there will also be a requirement on the owners of large buildings occupied by public authorities and institutions providing services to the public to commission and display a Display Energy Certificate (DEC).

Only a very few commercial premises will be exempt from the EPC regulations and these include places of worship, temporary structures, agricultural buildings with low energy demands, premises due to be demolished, and stand alone (detached) buildings with a useful floor area of less than 50m².

Owners or landlords of properties which come to the market on or after 1st October 2008 should obtain an EPC before the property is first marketed - that is, before the first people are shown round or the marketing particulars are advertised. If this is not possible, or the property is being sold or let privately, then the EPC must in any event be produced before exchange of contracts.

In relation to EPC's for newly built commercial premises, and for alterations to existing commercial premises to create fewer or more lettable units, the EPC will have to be produced before the Building Control Inspector will issue a completion certificate.

Certain transactions will be exempt from the need to provide an EPC and these include lease renewals or extensions to existing tenants, lease surrenders and compulsory purchases. There is also a suggestion that a transaction that is not for value (e.g. a lease assignment for nil consideration) would also be exempt, but this is a grey area.

There are also transitional provisions affecting properties that were marketed before 1st October 2008, but which have not yet reached exchange of contracts, which allows the exchange to take place and the EPC to be provided later, but it must then be provided by 4th January 2009. It is not clear to what extent these transitional provisions give some leeway to properties that are the subject of a private sale,

which has been agreed before 1st October 2008, but similarly that has not exchanged.

The penalty for non-compliance with the requirement to provide an EPC is a sum equivalent to 12.5% of the rateable value of the property, subject to a minimum fine of £500 and a maximum of £5,000. You would also be ordered to provide the EPC. The regulations will be enforced by Trading Standards.

If you are involved in a matter which now requires the provision of an EPC, you should contact the person handling your work to discuss the best way to provide the same without delaying the transaction.

If you do not currently use us for your transactions but would like more information, please do not hesitate to contact us.

This fact sheet is one in a series of publications designed to provide practical guidance on matters of interest to clients. Copies of all our fact sheets may be obtained free of charge on request from any of our Partners or Staff.

We believe the information contained herein to be correct as at October 2008. Whilst all possible care is taken in the compilation and presentation of this fact sheet, no responsibility for loss, occasioned by any person acting or refraining from acting as a result of the material in this fact sheet, can be accepted by the firm or the author.

The information in this Fact Sheet is not designed to be a definitive text on this issue. On the contrary, it is designed to merely serve as a guide to supplement what we can advise you on directly. If you have any particular queries, especially where the circumstances of a matter make it unusual, you should seek further advice.