

EPC (Energy Performance Certificate) – Rating Change 2018

(What is an EPC? See Note 1)

Estimates from the Department for Energy and Climate Change (DECC) suggest that buildings account for around 43% of the UK's total carbon dioxide emissions. Of this, commercial buildings represent between a third and a half. Against this backdrop, legislative changes under the Energy Act 2011 (the "Energy Act") will make it unlawful from 1st April 2018 to let residential or commercial properties with an EPC Rating of F or G (the lowest grades).

EPC scorings are getting progressively tougher as building regulations tighten over time; a building scoring an E rating today is likely to be an F rating by 2018. By 2018 around 35% of commercial property in the UK could rank below an EPC E rating. The Government's aim is to pave the way towards new and retrofitted "nearly-zero energy" buildings by 2020, and in the case of public buildings by 2018. Furthermore, there is a high likelihood that the minimum energy standards proposed for 2018 will be raised in the future.

The Energy Act could have significant implications for landlords and for occupiers who wish to assign or sub-let space, including:

- Marketability of some properties would become impossible unless they were upgraded to meet minimum standards.
- Valuations of such properties could be affected if their marketability is diminished.
- Rent reviews and lease re-gearings for properties in this situation could also be affected (see below).
- Implications on end of lease dilapidations. Works may be required to bring a building up to adequate efficiency. But at whose cost - the tenant or the landlord? Watch out for test cases on this.

Uncertainties and Exceptions

These often exist with new legislation and some are already on the radar:

- Length of lease - currently there are some exemptions from meeting minimum energy standards, for example in relation to leases of less than 6 months or long term leases of over 99 years. However, these may be changing and we could find that new energy standards will apply to all lettings and re-lettings. Clarification from the Government is awaited.

- Local Authority planning consent - there may be situations where energy improvement works cannot be carried out as planning consents are not available, e.g. on listed properties or those in conservation areas.
- Landlord/owner consent – if the energy improvement works were to reduce the value of the property, then the landlord might not be willing to give its consent.

What 7 things should building owners and occupiers be doing NOW?

Get ahead of the game - the Government is committed to implementing a policy of higher building energy efficiency. The following actions need to be considered:

1. Get an accurate and up to date EPC rating as many of the earlier EPC ratings are primarily assumption based. All rentable property needs to have an EPC Assessment.
2. Where an EPC rating is an "F" or "G" (or is at risk of becoming so) an Energy Efficiency Plan should be put in place to improve the energy efficiency of the property. This should include a cost benefit analysis of improving energy efficiency and weighing these against options to market the property and/or re-gear the lease.
3. Implement energy improvement works before April 2018. Some of the measures can be straightforward, e.g. upgrading to efficient lighting can have a huge impact on the EPC rating.
4. Any energy efficiency upgrades should take advantage of void periods, lease breaks and/or be included as part of ongoing planned maintenance and plant renewal programmes.
5. Assess whether Green Deal finance could be utilised.
6. When signing up to leases today that go beyond 2018, the impact of this legislation must be considered.
7. In new leases, look to make repairing clauses tight and concise.

What advantages can it bring?

Be an informed party. Take advice on the appropriate marketing of your property including the provision of energy performance reports and ratings for statutory compliance and marketing purposes. Using EPC as part of the lease negotiation process will not only drive a better commercial deal but may also foster greater owner-occupier collaboration. Energy efficient/environmentally friendly modifications, for example, could lead to savings that benefit the occupier.

If you have rent reviews under your current leases, changes you seek to make now to improve energy efficiency to meet the new requirements could have implications on rental values, i.e. push them up. Plan for this now in owner / occupier discussions – for example, share the improvement costs, factor this into the rent review terms.

The same approach should be taken with lease re-gearing. If potential energy efficiency projects are going to improve the property, get the costs and benefits scoped out ahead of such discussions.

Summary

Given the implications for property owners and occupiers alike, it is clear that a full understanding of the energy efficiency of your property assets and of the wider lease scenarios is essential. Thereafter owners and occupiers will need to assess the costs and feasibility of undertaking energy improvement works through retrofits or refurbishments. They should also consider whether they bring forward properties for marketing or lease re-gearing prior to 2018.

Whatever the situation Avison Young can provide advice upon the legislation and its implications for your assets. This will help you and your colleagues identify the potential impact, the risks and the benefits the proposed legislation might have on your property

For further information:

- **EPC Advice and Procuring Fit Outs – Tony Oxford (07980 987 477) or Manish Ranpuria (07557 923 345)**
- **Developing Accommodation and Workplace Strategies – Nick Cook (07768 607 060) or Alasdair Gurry (07968 110 812)**
- **Lease Renewals, Rent Reviews and Lease Regearing – Robert Smith (07917 107 320) or Tessa Passey (07876 860 428)**
- **Lease Disposals, Acquisitions and Rates – Iain Rackley (07795 037 783) or Ben Hutchen (07795 842 497)**
- **Capital Markets – Mark Holliday (07808 139 569) or Richard Worrall (07786 383 478)**

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Note 1 – What is an EPC?

EPCs are required whenever a building is constructed or for existing buildings, before it is marketed for sale or rent. The EPC records the energy efficiency of a property, providing a rating of the energy efficiency and carbon emissions of a building on a scale from A to G, where A is very efficient and G is very inefficient. They enable the energy efficiency of one building to be compared with another building of the same type. An EPC will include a recommendation report listing measures (such as low and zero carbon generating systems) to improve the energy rating of the building. The EPC also contains information about the rating that could be achieved if all the recommendations were implemented.