



Your ABC to EPC Changes from April 2018

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Introduction

Energy Performance Certificates (EPCs) for all commercial properties were introduced in October 2008, and this included factories, offices, retail premises and public sector buildings. As an owner or landlord, you will need to have an EPC whenever the building is old, built or rented. Buildings in England and Wales (but not Scotland) also require a Display Energy Certificate showing actual energy use and not a theoretical energy rating.

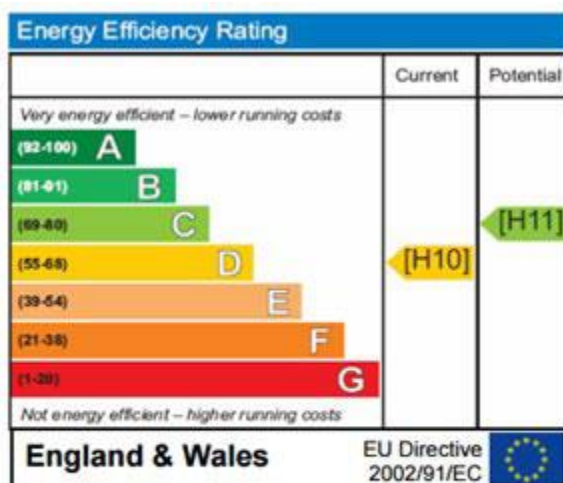
In this technical bullitine, we have an overview of what an EPC is, what the legislation changes are and how this will affect owners and landlords. Finally, we explain how you can prepare yourself for the changes.

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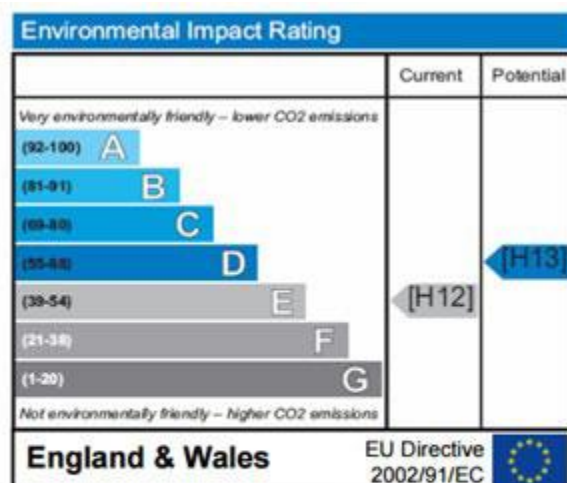
This document is designed as a guide to the legislation surrounding energy performance certificates and is not a substitute for training or legal advice. Every effort has been made to ensure the accuracy of the information presented is correct at the time of publishing, but this cannot be guaranteed.

What is an EPC Rating

Let's start with the basics. EPC stands for Energy Performance Certificate. If you don't know what that is you may have seen the multi-coloured stickers on the front of electrical appliances for sale, e.g. fridges, freezers, washing machines or dish washers. The sticker lets you know the energy efficiency for that particular appliance. Your home and the building you work in, much like the humble washing machine, will also have an energy efficiency rating. The energy efficiency is measured on a scale from A (very efficient) to G (inefficient). The whole point of an EPC for a building is to let the person who owns or is leasing the building, know how costly it will be to heat and light the building. The Environmental Impact Rating lets them know what carbon dioxide emissions are likely to be. As of April 2018 owners and occupiers of leased buildings need to be aware of the changes being made to the Energy Act 2011 and how these changes could affect them



The energy efficiency rating is a measure of the overall efficiency of a home. The higher the rating the more energy efficient the home is and the lower the fuel bills will be.



The environmental impact rating is a measure of a home's impact on the environment in terms of carbon dioxide (CO₂) emissions. The higher the rating the less impact it has on the environment.

WHAT IS AN EPC RATING?

From April 2018 it will be unlawful to rent a commercial or residential property with an EPC level of F or G. This will also impact tenants wishing to assign or sub-let their property. The 2015 Energy Efficiency Regulations which were passed in March 2015 set out Minimum Energy Efficiency Standards, known as MEES, for England and Wales.

These ratings (as mentioned earlier) are graded A-G, with no regulations or financial penalties attached to your current EPC level. If a building has a rating of A to G, it will previously not have had any financial effect on the owner or occupier of the property.

Going forward, properties rated F to G will have a financial impact on the landlord (i.e. the landlord can't rent out). The new regulations will apply to all privately rented property (commercial and residential). This includes properties where a lease is already in place and was granted before April 2018.

However, as with all regulation changes, there are exclusions, some of which are:
Leases that are six months or less subject to successive short term tenancies.
Tenancies are let on long leases of 99 years and more.

Properties de-crease in value if brought up to the EPC level E or higher. Any work needed to raise the EPC to level E or higher would materially damage a property then that could also allow an exemption.

A building which is listed or officially protected and the minimum energy performance requirements would unacceptably alter it. A place of worship
The Government's Green deal can also assist in exemptions. The Green Deal is focused on energy efficiency measures which meet the golden rule, which is that the expected financial savings must be equal to or greater than the costs attached to the energy bill.

What has changed

The measures must be approved from the Green Deal Home Improvement Fund (GDHIF) list, and the claimed bill savings must be accredited through this process.

An expert report could be provided that states any energy efficiency measures will reduce a property's value by 5% or more; this would result in the property is exempt.

It is understood that exemptions will only last for five years and that the regulations will also cover any sub-leases and assignments. The MEES regulations will also include any subleases and assignments.

There is a cooling off period of six months after the lease start date when a property is assigned, sold or sub-let. The works to bring the building up to the required minimum EPC level have to be carried out within these six months.

There is going to be a centralised register, the PRS Exemptions Register and all properties below the EPC grade E will be required to be entered onto this register.

Reportedly 19% of non-domestic buildings with an EPC rating will fall into this category. When a poor EPC is found (below level E) the question on supersession will arise if at the end of a lease a landlord needs to implement works to bring the building up to the required standard. If there is extensive work which needs to be carried out, for example, replacing plant within the ceiling voids. This work would be found at the point of doing a dilapidation report.

This means that at the end of a tenancy in an extreme case, a significant proportion of the dilapidations claim could be dismissed as the landlord would have to modify parts of the property upon which dilapidation claims were being made.

Another significant change will be to Part L of the Building Regulations in 2018. There will be a big push to make all residential buildings nearly zero energy which will extend to nondomestic buildings from 2019.

The penalties for non-compliance are onerous. Local authorities can monitor and enforce the regulations through Trading Standards. A compliance notice can be served, requesting the landlord to provide further information on why they believe the property is not complying with the regulations. If the landlord does not respond or the reasoning is not considered sufficient, prosecution could follow. It is possible to appeal any penalty notices to the first tier Tribunal which is an appeal against decisions made by the HRMC. This might be due to a notice issued incorrectly or that the enforcers did not follow the regulations. There is an ongoing review of these regulation changes, and 2020 sees the first review.

Infringement	Less Than three months non-compliance	Three months or more of non-compliance
Supplying false or misleading information to the PRS Exceptions Register.	£5,000 fine	
Not complying with a compliance notice from a Local Authority	Publication of non-compliance	
Renting out a non-compliant property	10% of rateable value, but with a minimum penalty of £5,000 and a maximum of £50,000 Publication of non-compliance	20% of rateable value, but with a minimum penalty of £10,000 and a maximum penalty of £150,000 Publication of non-compliance

Table 1 Penalties for non-compliance

Conclusion

These regulations have been in place for nearly a year. So if you have not already done so, it is worth beginning the process of evaluating your energy performance. This will stop any potential penalty.

It would be a great idea to commission a fresh EPC as soon as possible even if the property is not up for let. By doing this, you will be able to start putting costs together for the investment that will be required to maintain the value of the building from 2018 onwards.

How can you prepare yourself and your building for the new regulations? Firstly, seek professional advice, as you will need to be compliant with the new EPC regulations.

You will need to be aware of any potential penalties that you may incur and how to prevent them. Any building or electrical/mechanical works that need doing to bring the building up to standard will require surveys done, and a competent schedule of works carried out to complete them.

All of this will continue to protect and potentially enhance the value of your building making sure you have a substantial investment for the future.



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