

Preface

The European Directive on the Energy Performance of Buildings (EPBD) is a key part of strategies for tackling climate change. Nearly half of all carbon emissions in this country come from buildings. The principle underlying the Directive is to make energy efficiency transparent by the issuing of a certificate showing the energy rating, accompanied by recommendations on how to improve efficiency. The Directive will be fully implemented by the end of 2008.

Under Article 7 of the Directive, any building which is sold, rented out or constructed must have an Energy Performance Certificate (EPC). This must be issued by a qualified and accredited assessor in an independent manner. Once produced an EPC is valid for ten years. The certificate is accompanied by recommendations on how to improve energy efficiency. These do not however have to be implemented. This part of the Directive has been implemented into law in England and Wales by the Energy Performance of Buildings Regulations (2007/991)¹.

This document is intended to help landlords of dwellings in the social and private rented sectors understand their responsibility for making EPCs available when renting out a dwelling.

The guidance will help landlords to understand:

- the basic legal requirements relating to EPCs
- the situations for which EPCs will be required
- at which point a dwelling may require an EPC, how to obtain an EPC and how long the EPC can be expected to be valid for
- what an EPC will contain and what the tenant will receive
- the implications for the validity of the EPC if the dwelling's energy efficiency is improved

It should also help landlords to:

- plan for the provision of EPCs in a cost effective manner
- consider how to integrate EPCs with current stock management systems and reporting requirements
- understand the enforcement process
- be aware of potential sources of funding for improvement works

Finally, this guidance also includes answers to some commonly asked questions in annex A and provides an overview of the legal framework in annex B.

Note that this guidance relates specifically to England and Wales. The Devolved Administrations in Scotland and Northern Ireland are responsible for transposing the

¹ http://www.opsi.gov.uk/si/si2007/uksi_20070991_en_1

European directive into their national legislation and landlords with dwellings in those countries should consult those bodies for information about these requirements.

This guide describes the scope and requirements of the Regulations applying to dwellings that are rented out 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 guidance will be supplemented by additional material in the form of frequently asked questions which will be available on the Communities and Local Government website. It will be periodically updated.

The document is part of a series that explains the introduction of Energy Performance Certificates, Display Energy Certificates and Air-Conditioning inspections in England and Wales.

Key points


- from 1 October 2008, an EPC will be required whenever a building² in the social or private rented sectors is let to a new tenant
- a building can be: the whole of a building; or part of a building where the part is designed or altered to be used separately. For residential purposes, 'designed or altered to be used separately' describes a unit that is self-contained, meaning that it does not share essential facilities such as a bathroom/shower room, wc or kitchen with any other unit, and that it has its own entrance, either from outside or through common parts, that is not through another dwelling
- landlords must provide an EPC free of charge to prospective tenants at the earliest opportunity and must provide a copy of the EPC to the person who takes up the tenancy
- the purpose of the EPC is to show prospective tenants the energy performance of the dwelling they are considering renting
- EPCs are valid for 10 years and can be reused as many times as required within that period. It is not necessary to commission a new EPC each time there is a change of tenant. However, once a more recent EPC has been produced for a dwelling, it will always supersede an existing one. Thus, where a number of EPCs are obtained for a property within the ten year period only the most recent one is valid
- an EPC is not required for any property that was occupied prior to 1 October 2008 and which continues to be occupied after that date by the same tenant. However, landlords may commission EPCs for these dwellings if they wish
- the EPC shows two things – the Energy Efficiency Rating (relating to running costs) and the Environmental Impact Rating (relating to the carbon dioxide emissions) of a dwelling. Each rating is shown on an A–G rating scale similar to those used for fridges and other electrical appliances
- the rating is accompanied by a recommendation report that shows how to improve the dwelling's energy efficiency. These two elements together form the EPC and the complete document must be provided to the new tenant. There is no statutory requirement to carry out any of the recommended energy efficiency measures stated in the recommendation report
- EPCs must be produced by an accredited assessor, but landlords are free to seek accreditation for themselves and their employees and so become competent to certify their own properties

² A building requiring an EPC must have: a roof and walls; and use energy to condition the indoor environment.

Example of an Energy Performance Certificate (EPC)

A typical Energy Performance Certificate showing 'fridge style' ratings for the Energy Efficiency and the Environmental Impact of a dwelling is reproduced below. An accompanying Recommendations Report is included on the following page.

Energy Performance Certificate




17 Any Street,
Any Town,
County,
YY3 5XX


Dwelling type: Detached house
Date of assessment: 02 February 2007
Date of certificate: [dd mmmm yyyy]
Reference number: 0000-0000-0000-0000-0000
Total floor area: 166 m²

This home's performance is rated in terms of the energy use per square metre of floor area, energy efficiency based on fuel costs and environmental impact based on carbon dioxide (CO₂) emissions.

Energy Efficiency Rating

	Current	Potential
Very energy efficient - lower running costs		
(92-100) A		
(81-91) B		
(69-80) C		73
(55-68) D		
(39-54) E	37	
(21-38) F		
(1-20) G		
Not energy efficient - higher running costs		
England & Wales	EU Directive 2002/91/EC	

Environmental Impact (CO₂) Rating

	Current	Potential
Very environmentally friendly - lower CO ₂ emissions		
(92-100) A		
(81-91) B		
(69-80) C		69
(55-68) D		
(39-54) E		
(21-38) F	31	
(1-20) G		
Not environmentally friendly - higher CO ₂ emissions		
England & Wales	EU Directive 2002/91/EC	

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.

Estimated energy use, carbon dioxide (CO₂) emissions and fuel costs of this home

	Current	Potential
Energy Use	453 kWh/m ² per year	178 kWh/m ² per year
Carbon dioxide emissions	13 tonnes per year	4.9 tonnes per year
Lighting	£81 per year	£65 per year
Heating	£1173 per year	£457 per year
Hot water	£219 per year	£104 per year

Based on standardised assumptions about occupancy, heating patterns and geographical location, the above table provides an indication of how much it will cost to provide lighting, heating and hot water to this home. The fuel costs only take into account the cost of fuel and not any associated service, maintenance or safety inspection. This certificate has been provided for comparative purposes only and enables one home to be compared with another. Always check the date the certificate was issued, because fuel prices can increase over time and energy saving recommendations will evolve.

To see how this home can achieve its potential rating please see the recommended measures.



Remember to look for the energy saving recommended logo when buying energy-efficient products. It's a quick and easy way to identify the most energy-efficient products on the market.

For advice on how to take action and to find out about offers available to help make your home more energy efficient, call 0800 512 012 or visit www.energysavingtrust.org.uk/myhome

Recommendations

The measures below are cost effective. The performance ratings after improvement listed below are cumulative, that is they assume the improvements have been installed in the order that they appear in the table.

Lower cost measures (up to £500)	Typical savings per year	Performance ratings after improvement	
		Energy efficiency	Environmental impact
1 Cavity wall insulation	£411	E 53	E 46
2 Low energy lighting for all fixed outlets	£11	E 53	E 46
Sub-total	£422		
Higher cost measures (over £500)			
3 Hot water cylinder thermostat	£102	D 58	E 51
4 Replace boiler with Band A condensing boiler	£323	C 73	C 69
Total	£847		
Potential energy efficiency rating		C 73	
Potential environmental impact (CO ₂) rating			C 69

Further measures to achieve even higher standards

The further measures listed below should be considered in addition to those already specified if aiming for the highest possible standards for this home.

5 Replace single glazed windows with low-E double glazing	£40	C 75	C 71
6 Solar photovoltaics panels, 25% of roof area	£49	C 77	C 74
Enhanced energy efficiency rating		C 77	
Enhanced environmental impact (CO ₂) rating			C 74

Provision of an EPC

General requirements

The landlord must commission an EPC and ensure a copy of it, including the recommendation report, is available³ free of charge to prospective tenants at the earliest opportunity. As a minimum, this should be when prospective tenants are first given written information about a dwelling or are arranging to view it, and before any rental contract is entered into. A copy of the EPC (rating and recommendation report) must be given free of charge to the person who ultimately becomes the tenant before any rental contract is entered into.

From 1 October 2008, an EPC will be required whenever a building in the social or private rented sectors is let to a new tenant. A building can be: the whole of a building; or part of a building where the part is designed or altered to be used separately.

An EPC is only required for a dwelling that is self-contained, meaning that it does not share essential facilities such as a bathroom/shower room, wc or kitchen with any other dwelling, and that it has its own entrance, either from outside or through common parts, that is not through another unit.

In instances of lettings where marketing activity is initiated pre-October 2008, an EPC is only required if the property continues to be offered for let on or after 1 October 2008.

Where the landlord has an agent, they may be given the task of ensuring that these requirements are met. However, the landlord will remain responsible for any breaches.

Lease renewal

The landlord is not required to produce an EPC when an existing lease is renewed, only when the tenant changes.

Communications

Landlords should bear in mind the most appropriate way of communicating with prospective tenants. Weblinks or electronic communications are acceptable, provided that prospective tenants will be able to access information in this way and consents to receive it in this form. The Landlord should maintain

³ In this context, 'available' means that the document must be made available for inspection. It is not necessary to provide a copy at this stage.

the building, and must carry out a visit if there is any doubt. This applies equally to EPCs based on data gathered by others on behalf of the assessor.

Cost effective production of EPCs for similar dwellings

Separate guidance is currently being prepared for landlords with large amounts of similar stock in both the private and social sectors. Publication is anticipated in Summer 2008. The guidance will cover:

- sampling and multiple certification (formerly described as sampling and cloning)
- use of common input data which applies to more than one dwelling
- use of representative data
- obtaining an overview of the energy efficiency of the stock from sample EPCs

EPC creation and lodgement

The energy data is entered into approved RdSAP software to create the EPC. This is lodged on the Domestic Register by an accredited assessor and a hard copy produced. Landlords and tenants can access the EPC via the Domestic Register if they have the property's Report Reference Number (RRN). Input data is recorded as well.

For any given address the current and historic EPCs are held and displayed within the Domestic Register.

Enforcement

The local weights and measures authority, which will be the Trading Standards department for the area, is responsible for enforcing the regulations that require EPCs to be produced for rented dwellings. An authorised Trading Standards officer (TSO) has powers to ask a landlord who appears to be or to have been under a duty in the regulations to produce for inspection an EPC and recommendation report if the TSO suspects that an offence has been committed. This might occur, for example, if a prospective tenant complains that they have not been given access to a copy of the EPC, or if the tenant does not receive the EPC when he takes up the tenancy.

If the landlord has failed to provide an EPC to a tenant, or fails to show an EPC to an enforcement officer when asked, Trading Standards can issue a notice with a penalty charge of £200 per dwelling. In addition to paying the penalty notice, the landlord will still have to provide an EPC to the person who has become the tenant.

The level of fine and the process for issuing a penalty notice, and challenging once it has been issued is set out in the Energy Performance of Buildings Regulations referred to above.

Determining the type of EPC required

Dwellings in multiple occupation

Where individual rooms in a building are rented out and there are shared facilities (eg kitchen and/or bathroom), an EPC is not required. This is because an EPC is only required on the rental of a building or part of a building designed or altered to be used separately. Renting a room does not meet the 'part of a building' definition.

An EPC is only required for a habitable unit if it is self-contained. This is therefore different to the requirement for Decent Homes inspections, where units which are not self-contained must be individually assessed. Landlords should be aware of this when holding EPC and Decent Homes data in common asset management databases.

Case Study 1

A house or flat is rented by a number of tenants who have exclusive use of their bedrooms but share a kitchen and bathroom. In this case each tenant has a contract with the landlord for the parts they have access to, but not for a whole dwelling. An EPC is therefore not required each time a tenant moves, although one will be required for the whole house if it is sold, rented as a whole or constructed.

Case Study 2

A group of friends rent a property and there is a single contract between the landlord and the group as the contract is for the rental of a whole dwelling⁴. An EPC is required for the whole dwelling.

Case Study 3

Individual tenants rent rooms in a hall of residence. Each room does not constitute a building or part of a building designed to be used independently or separately. An EPC is not required, for each individual room. However, an EPC will be required on the whole building if it is sold, rented or constructed. It will also be required on self-contained units within the hall, eg a self-contained caretaker's flat, if this is sold, rented or constructed.

⁴ In this case, a dwelling is taken to be a domestic building which is either the whole of the building or a part altered or designed for separate use

Planning for EPC implementation

When landlords are planning an EPC compliance strategy some of the main issues to consider are:

- size of portfolio
- whether the portfolio is spread over a large geographical area, or concentrated in one location
- similarity of the stock
- turnover of the stock, or particular parts of the stock
- any energy efficiency data already held and its accuracy and completeness
- any existing stock management systems in place to hold this data
- the stock management/condition survey contracts in place and future requirements/intentions
- other policy and regulatory requirements to visit properties to assess their condition
- whether vulnerable tenants live in the properties
- whether any current staff are trained, or will be trained, in energy assessment
- the tender process which must be followed for new contracts

The most appropriate strategy will be different for each landlord. It will depend on the answers to these questions, so it is not possible for guidance to give an authoritative view on what is the best strategy in any given situation or for any particular landlord. Nevertheless, some general principles are set out below.

Adopting a proactive or reactive approach

A proactive approach to EPC compliance means having them in advance of the trigger points at which they would be needed. For example, if a landlord has a block with a high turnover of tenants, then producing EPCs in advance of the requirement will mean that these are on hand to give to new tenants as they are offered accommodation and will reduce any impact on void times. It should be borne in mind however that a proactive approach typically requires surveys of tenanted properties and if any difficulties are encountered in gaining access, the need to make repeat visits could increase costs.

A proactive approach would probably be less cost effective for a block of flats with a very low turnover when the EPCs may not be needed for many years.

A reactive approach means producing EPCs as and when they are needed. If there is no EPC in place when a tenant leaves, then one will need to be produced before the accommodation is next made available to prospective tenants.

Maximising the benefits from the EPC

The level of data already held by landlords is likely to vary considerably, depending on a number of factors:

- the individual strategies, priorities and budget: some landlords may have chosen to collect and hold detailed data, others may not have the resources or need to do this
- the quality of data inherited from previous owners of the stock
- the date and extent of any recent renovation works to properties
- the date and completeness of the most recent stock condition survey
- the age of dwellings and extent of subsequent improvement works

The current status of the energy data which the landlord holds is likely to affect the data they may wish to retain from the process of producing an EPC. Landlords with a larger portfolio, for example, may wish to hold the source data for the EPC, i.e. property dimensions, heating system details, double glazing and insulation, in an asset management database and use it to inform future improvement programmes. If this is the case, the provision of such data should be discussed with the DEA as part of the contract negotiations.

Surveying tenanted dwellings

Landlords planning to produce EPCs for homes that are occupied may need to consider whether access to gather the data could be a problem. Some issues to consider:

- the rights and limitations in the lease in relation to access by the landlord, or a person acting on their behalf
- ways to encourage tenants to grant access: giving adequate notice and considering whether evening or weekend appointments may be more convenient
- having a wide pool of dwellings to draw from. If a sample of flats in a block is being assessed with a view to creating the EPCs for all identical properties, a contingency of other addresses may be needed as a back up if access proves to be a problem
- good communications: engaging tenants in the process helps them understand why they should grant access
- considering any special access requirements for vulnerable tenants

The Accreditation Schemes' codes of practice will prevent DEAs from entering dwellings where there are unsupervised children present, and may also extend this to vulnerable adults. It is important (if appointing external DEAs) for landlords to make clear where there may be vulnerable tenants present, as the need to have accompanied visits may add costs or time to the process.

For both tenanted and vacant dwellings, the DEAs should be made aware by the landlord of the landlord's health and safety precautions and any areas of particular risk that they may encounter.

Landlord and tenant responsibilities

A summary of responsibilities is provided below:

- copy of the certificate: the landlord must provide the whole EPC (including the recommendations report) free of charge to the new tenant
- understanding the running costs: though this is not an obligation, the landlord should advise the tenant that the estimated running costs (a) are based on standardised consumption (number of occupants and hours of heating per day) (b) take into account costs for heating, hot water and lighting only and do not include the cost of appliances and (c) are based on average fuel prices current when the EPC was produced. The running costs could have been estimated up to 10 years previously and will not reflect the higher rates typically paid by those using prepayment schemes
- implementing the report recommendations: there is no obligation on the landlord to carry out any of the measures. Tenants can act on the behavioural advice (eg turning down a thermostat). Typically it is likely to be the landlord who carries out physical improvements
- understanding what the recommendations mean. The potential rating is based on the adoption of all of the cost-effective measures. These are separated into lower cost measures (up to £500) and higher cost measures (over £500). In some cases, adopting a measure may improve energy efficiency but may not be sufficient for the dwelling's energy rating to improve by a whole band
- although a measure may improve the dwelling's energy efficiency, it may not be cost effective for the landlord to replace existing equipment that is relatively new, eg a boiler. Furthermore, even if a dwelling has the potential to be improved, the landlord is under no obligation to do so
- understanding the Further Measures section: this section includes measures that those who are very keen to invest in energy efficiency may want to consider, but which are considerable investments with long payback times (over seven years). Tenants need to understand what these mean and that it may not be realistic to expect a landlord to install these measures
- understanding how the EPC fits with other improvement programmes: Tenants who are having other improvement works carried out (eg for Decent Homes programmes) should understand what these programmes are, and why any works may not be the same as the improvements recommended on the EPC
- for further advice on energy efficiency tenants should be directed to publications by the Energy Saving Trust⁵

⁵ The Energy Savings Trust Helpline number is 0800 512 012

- Q. Who has access to the EPCs on the Domestic Register?
- A. In broad terms, only an individual who has the unique reference number for the EPC in question, has the right to access an EPC on the Domestic Register. However, the accreditation scheme responsible for the particular EPC, the enforcement authorities and, on an anonymised basis for research purposes, the Department for Communities and Local Government will also have access to the EPCs.
- Q. Are asset management databases available that can hold property specific RdSAP input data and the central register reference number in addition to the other asset details?
- A. These are being developed by the market in response to a recognised need.
- Q. Is it possible to advertise a property before the EPC has been produced?
- A. There may be occasions when it is possible to offer a dwelling for rent before the EPC is available. However this should not be the norm. The landlord will be expected to have made contact with a DEA and commissioned the EPC with a view to receiving it within two weeks of the date it was commissioned.
- Q. If an EPC is being produced when the dwelling is empty, what impact will occupying tenants have on the accuracy of the energy and environmental ratings?
- A. The occupying tenant will have no impact on the EPC ratings, as these are produced using standardised occupancy data (ie number of occupants and hours of heating per day).
- Q. What if the tenant wants to buy the dwelling they already occupy? Can I use the same EPC as I used when they took the tenancy?
- A. If the tenant wants to purchase the dwelling they rent, the same EPC can be used. This is because it is a non-marketed sale not affected by the HIPs Regulations. An EPC is required but this can be up to 10 years old. However, if the dwelling is also being placed on the open market, the EPC must be no more than 12 months old because it is affected by the HIPs Regulations.
- Q. Is an EPC needed if tenants are moving via a mutual exchange?
- A. If advertised for exchange via a choice based lettings system, then an EPC will be required. If the exchange has been agreed privately than an EPC is not required.

- Q. Is an EPC needed for shared ownership dwellings?
- A. The first equity purchase of the dwelling creates a trigger for an EPC to be produced. The purchase of subsequent equity does not create a need for a further EPC.
- Q. What happens in the case of Stock Transfer? Can we have one EPC for a whole block in that case?
- A. For a stock transfer an EPC is required for each dwelling. However, it may be possible to employ techniques which will reduce the number of dwellings that need to be assessed. Separate guidance will be available on these.
- Q. What happens if I need to get an EPC to advertise the property, but I am going to improve before the new tenant moves in?
- A. Either explain to the tenant that improvement works were carried out since commissioning the EPC and so the dwelling's energy efficiency rating may now have changed, or commission another EPC after completion of the improvements.
- Q. Will I have to issue an EPC if I have a lodger in my house?
- A. A letting of a room within your larger household does not constitute a rental of a building or part of a building therefore an EPC is not required.
- Q. Will I need to show an EPC to prospective residents of, for example, a care home or a boarding school?
- A. These examples do not constitute a rental of a building or a part of a building. Therefore an EPC is not required.
- Q. Is an EPC required under a long term Regulated tenancy where a tenant dies and a partner, member of their family or other individual is able to succeed to the tenancy under the Rent Act 1977?
- A. Under such circumstances an EPC is not required.
- Q. Will an EPC be needed for holiday accommodation?
- A. If the agreement between the parties expressly allows for a short period of holiday occupation only and no intention to create a tenancy can be inferred, then an EPC is not required.