

# TRAVERS SMITH

## ENERGY PERFORMANCE OF COMMERCIAL BUILDINGS – KEY FACTS



*From 1 October 2008 an EPC must be provided to prospective buyers or tenants before exchange of contracts for all sales and lettings of commercial buildings. Certain public buildings also require a DEC. Transitional inspection of certain air conditioning systems became mandatory from 4 January 2009.*

Energy Performance Certificate (EPC)	Who will need it?	What must be done?	How is it enforced?
<p>An EPC measures the energy performance of a building (e.g. the fabric, insulation and design) and its services (e.g. lighting, heating and cooling).</p> <p>The assessment and rating is completed by reference to a benchmark.</p> <p>An EPC includes an advisory report, with recommendations for energy and/or cost savings on short (3 years), medium (3-7 years) and long term (more than 7 years) bases.</p> <p>Recommendations are not mandatory but their implementation may have an impact on sale price or rental income.</p>	<p>An EPC is required for buildings with heating, air-conditioning, chillers, mechanical ventilation etc. to condition indoor climate:</p> <ul style="list-style-type: none"> <li>• by developers on the construction of new commercial buildings;</li> <li>• by sellers/landlords on the sale, lease or sub-lease of existing commercial buildings; and</li> <li>• by contractors on certain modifications to buildings.</li> </ul> <p>An EPC is not required for:</p> <ul style="list-style-type: none"> <li>• transactions that do not involve a new owner or tenant (e.g. lease renewals or extensions, lease surrenders, compulsory purchase orders, share sales);</li> <li>• exempted buildings including places of worship, temporary buildings with a planned period of use of less than 2 years, non-residential stand alone buildings with a total useful floor area of less than 50m<sup>2</sup> and industrial sites, workshops and non-residential agricultural buildings with low energy demands.</li> </ul> <p>There are some special circumstances:</p> <ul style="list-style-type: none"> <li>• A heated subsidiary space (e.g. office) attached to a warehouse will require an EPC which will take into account the whole of the building.</li> <li>• A building to be demolished must meet certain tests to be exempt.</li> <li>• An option is not a contract for sale so no EPC is required but enquiries about the building by the option holder may trigger the requirement to provide one.</li> </ul>	<p>A survey must be carried out by a specialist accredited Energy Assessor who will collate the data to generate the EPC.</p> <p>The owner/occupier will have to provide the surveyor with full access to the building and information including as-built drawings, operations and maintenance manuals.</p> <p>An EPC is valid for 10 years (unless overridden by an updated assessment) and needs to be registered on the national register operated by Landmark Information Group for 20 years.</p> <p>A tenant's EPC for its demise where the demise is part of a building will not invalidate a landlord's EPC for the whole building where the latter relates to a transaction of the whole building.</p> <p>A landlord's EPC of the whole building may be used for the sale or letting of an individual floor provided that there is a common heating/ventilation/cooling system for the whole building. If each floor has a separate system, an individual EPC will be required for each floor or part.</p>	<p>For new buildings, refurbishments or modifications, enforcement is controlled by Building Regulations. No completion certificate will be issued without an EPC.</p> <p>For sales and lettings the local weights and measures (trading standards) authority has the power to serve a penalty notice.</p> <p>Penalty charges are set at 12.5% of rateable value (minimum £500, maximum £5,000).</p> <p>Penalty charge notices cannot be served more than 6 months after the day that the breach was committed.</p> <p>Fines are payable by the date specified on the notice (not less than 28 days from the date of the notice).</p> <p>Consultation is underway to make non-compliance an offence. It is currently an offence to obstruct an enforcement officer.</p>

Display Energy Certificate (DEC)	Who will need it?	What must be done?	How is it enforced?
<p>DEC is the public display of the energy use of public buildings.</p> <p>It is based on the actual amount of metered energy used by a building in a 12 month period.</p> <p>DEC must be displayed in a prominent position where it is readily visible.</p> <p>An advisory report is also required, which makes similar recommendations as EPCs in order to improve energy performance in the building.</p>	<ul style="list-style-type: none"> <li>A DEC applies to occupiers of all new and existing buildings with a total useful floor area of more than 1,000m<sup>2</sup> that are occupied in whole or part by public authorities and institutions providing quasi public services to a large number of people and receiving a large number of visitors.</li> <li>This includes hospitals, stations, schools, public libraries, museums, art galleries and leisure clubs where these are provided by public authorities directly or on a contracted-out basis.</li> <li>Private organisations, including those sharing a building with a relevant institution do not need a DEC.</li> <li>Shopping centres, private hospitals and private schools do not require a DEC as these are not public sector services.</li> </ul>	<p>The energy data (e.g. utilities usage) must be reviewed by a specialist Operational Ratings Assessor. The assessor may need to visit the site to prepare the advisory report unless the specialist has previous knowledge of the building.</p> <p>The occupier must provide information on energy consumption for all fuels used in the building (via meter readings or utility bills) for the previous 12 months. Where the occupier has been in occupation for less than 15 months from the implementation date, extrapolation of data is undertaken by the specialist surveyor.</p> <p>A DEC is valid for 12 months. The accompanying advisory report is valid for 7 years.</p> <p>Both documents must be lodged on a register operated by the Landmark Information Group.</p>	<p>The following penalty charges apply:</p> <ul style="list-style-type: none"> <li>£500 for not displaying a DEC</li> <li>£1,000 for failing to possess a valid advisory report.</li> </ul> <p>There are further offences for failure to commission these documents.</p> <p>Penalty charge notices are governed by the same procedures as for EPCs.</p>

Air Conditioning Inspections	Who will need it?	What must be done?	How is it enforced?
<p>Annual inspection is required for air conditioning equipment with an effective output over a specified rate.</p> <p>Inspection must be documented in a recommendation report which identifies possible improvements, recommends replacement of the system or suggests alternatives.</p>	<p>First inspections must be completed by the following dates:</p> <ul style="list-style-type: none"> <li>4 January 2009 - for systems with an effective rated output of 250kW or more</li> <li>4 January 2011 - for systems with an effective rated output of 12kW or more.</li> </ul> <p>Inspections must be completed at least every 5 years.</p>	<p>A survey of air conditioning by a specialist accredited Air Conditioning System Energy Assessor (ACSEA). Full access to such systems at the time of the site inspection is required together with any relevant supporting documentation, including as-built drawings, and operation and maintenance manuals.</p> <p>As a building occupier, you must retain the inspection reports and pass these on to future tenants.</p>	<p>Penalty charge of £300 for:</p> <ul style="list-style-type: none"> <li>failure to carry out an inspection</li> <li>failure to keep records of the inspection</li> <li>failure by a new "relevant person" (being the person who controls the air conditioning system) to undertake an inspection within 3 months of taking control.</li> </ul> <p>Penalty charge notices are governed by the same procedures as for EPCs.</p>

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