

DON'T GET CAUGHT OUT BY ENERGY PERFORMANCE

Just when everyone appeared to finally be getting to grips with the requirements of when are where Energy Performance Certificates have to be obtained and displayed, the rules have changed!

As a result of the Energy Performance of Buildings (Scotland) Amendment Regulations 2012 and the Energy Performance of Buildings (Scotland) Amendment (No.2) Regulations 2012, important changes to the regime have been introduced, some of which came into force on 1 October 2012.



October 2012 changes

Energy Performance Certificates (EPC) must be shown or made available for inspection, free of charge, to any prospective buyer or tenant. As from 1 October 2012, a copy of the EPC must also be given to the eventual buyer or tenant. However, this does not apply to renewals or extensions of existing leases, or to buildings which are still being constructed.

All EPCs must also now include a report containing more detailed information on the energy improvement recommendations and their cost-effectiveness. Although most EPCs have included this as a matter of course, it will now be a statutory requirement. Despite this change, any EPCs issued prior to 1 October 2012 will still continue to be valid for the original 10 year period.

The new Regulations have also clarified that the EPC requirements not only apply to the sale or lease of whole buildings but also to the units within a building.

Future changes

Further changes will come into force on 9 January 2013, which will have significant impact in respect of marketing properties for sale or rent, as well as when EPCs must be displayed.

From 9 January 2013, there will be a requirement for any sales particulars or advertisements showing a property for sale or let to include the energy performance indicator for that property. This will mean any Seller or Landlord will require to obtain the EPC before the property is marketed, rather than the current convention of it being obtained at the last minute, just before the deal concludes. Given that the penalty for

non-compliance with this provision is a fine of up to £1,000 per property, Sellers and Landlords would be prudent to ensure that any sales particulars advertising property prior to this date are updated accordingly.

As from the same date, the requirements relating to when an EPC must be displayed within a building will also change. These requirements fall under 2 different categories, depending upon whether or not the occupier is a public authority.

Where the property is not occupied by a public authority, the occupier will be required to display a valid EPC where:-

- (1) the building is "frequently visited by the public", which is defined as being a property which the public is able to visit on at least a weekly basis; and
- (2) the floor area of the property is more than 500 square metres; and
- (3) an EPC exists in relation to the property.

This means that where any building falls within this definition, which is likely to include the likes of shopping centres, cinemas, banks and health centres, and where an EPC has already been obtained, the occupier will be obligated to display the EPC in a prominent position. However, the requirements do not apply where no EPC exists in relation to the property.



If the property is occupied by a public authority, a valid EPC must be displayed where the floor area of the building is greater than 500 square metres. This rule applies regardless of whether an EPC already exists in relation to the property. This will change again as from 9 July 2015, when the minimum floor area will reduce to 250 square metres.

If you would like further information or have any queries in relation to Energy Performance Certificates, please contact **Michael Dewar** or **Lynn Simpson** in our Edinburgh office.