

BRIEFING

PROPERTY DEPARTMENT

ENERGY PERFORMANCE CERTIFICATES



The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2008 have come into force, and have also introduced transitional arrangements for Energy Performance Certificates in respect of commercial properties.

The basic position under the new regulations is that when a building is to be sold or let, the seller or Landlord must provide any prospective buyer or tenant with a valid Energy Performance Certificate (EPC), free of charge, at the earliest opportunity within the relevant process. This obligation is being introduced in stages for commercial properties, and the relevant commencement dates are: -

- 6th April 2008 – EPCs are required for the construction, sale or letting of properties with a floor area of over 10,000 square metres.
- 1st July 2008 – EPCs are required for the construction, sale or letting of properties with a floor area of over 2,500 square metres.
- 1st October 2008 – EPCs are required for the construction, sale or letting of all remaining commercial properties (the regulations actually refer to 50 square metres).

Transitional arrangements are introduced by these regulations, so that an EPC will not be required in the following circumstances: -

- ◆ Where the property was put on the market before the relevant commencement date (see above) with the intention of selling or letting it before the commencement date.
- ◆ The marketing of the property was “sustained to a reasonable extent”.
- ◆ The property remains on the market after the relevant commencement date.

In such cases, an EPC will not be required before the property is sold or let, and these transitional arrangements will apply until 1st October this year.

Accordingly, as a result of the above regulations, and subject only to the transitional arrangements, when selling or letting commercial property, it will now be necessary to provide an EPC to a prospective buyer or tenant, initially for properties over 10,000 square metres in extent, from 1st July for properties over 2,500 square metres, and from 1st October in effect for all other commercial properties. Commercial properties are therefore brought within the EPC regime already introduced in relation to residential properties by the controversial Home Information Pack.

For further information as to the impact of these regulations, please speak to any member of our Commercial Property Department.