

THE NEW EPC RULES – HOW TO AVOID A £5000 FINE

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Commercial Property

April 2011



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The coalition Government's plans to be seen as the "greenest Government ever" took a step closer with the introduction of a number of new directives relating to the Carbon Reduction Commitment, a new system of payments in relation to Feed in Tariffs for solar energy and changes to the regulations relating to Energy Performance Certificates (EPCs). The changes to EPCs which came into effect on 6th April will impact directly on pub tenants or freehold owners looking to sell or lease their pubs.

An EPC provides details concerning the energy efficiency of a property and recommendations as to how it can be improved. It also includes an asset rating which reflects the potential energy efficiency of a building.

Since the requirement for an EPC was introduced in 2007, a seller or landlord has had to provide an EPC to the buyer or tenant if the property is sold or let. The Government is seemingly concerned that EPCs are not being provided quickly enough to enable buyers or tenants to make informed decisions about the property (even though its energy efficiency rating is unlikely to influence their decision to proceed) as, largely they were only being provided shortly before exchange of contracts.

The new regulations are designed to ensure that buyers/tenants receive the EPC at the earliest opportunity. The three key changes are:

1. The EPC must be commissioned before the property is marketed and, for this purpose, "marketed" means the point at which it is first exposed to the public for sale or rent.
2. The seller or landlord must use all reasonable endeavours to ensure that the EPC is actually obtained within seven days of marketing the property.
3. If that timeframe is missed, there is a further 21 day period of grace but if the EPC is not obtained during that time i.e. 28 days after marketing, there is a breach of the regulations and a possible penalty. Unfortunately, it is no defence to say that you have continued to use all reasonable endeavours to obtain the EPC.

An agent who is instructed to sell or let a property will also be bound by these new regulations and will be under an obligation to check with the Seller/Landlord if an EPC has been commissioned before marketing the property. They will also need to include the first page of the EPC (not just the asset rating) in the particulars, as well as providing a full copy of the EPC to the buyer or tenant.

Failure to comply with the new rules could result in fines of up to £5000. So, if you are contemplating selling or letting in the near future, make sure you are ready!

Contact Sue Scott by telephone on **01306 880110** or by email: s.scott@downslaw.co.uk.

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