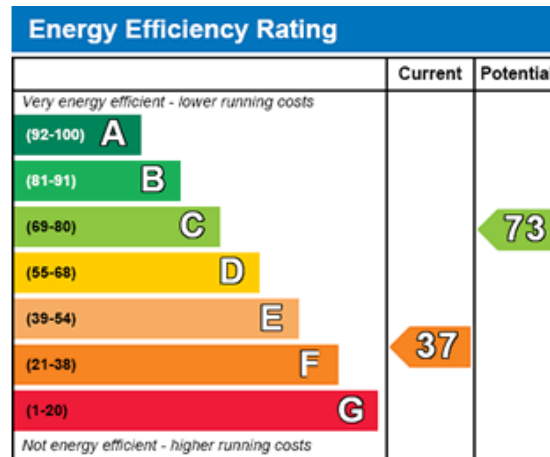


## Landlords Guide to **ENERGY PERFORMANCE CERTIFICATES (EPC's)**



The certificate provides energy efficiency A-G ratings and recommendations for improvement. The ratings - similar to those found on products such as fridges - are standard so the energy efficiency of one building can easily be compared with another building of a similar type.

### **Does everyone need an EPC?**

By 1<sup>st</sup> October an EPC is required by law when a building is constructed, sold or put up for rent.

So you will only need a certificate if you are:

- a homeowner – all sellers of homes need to ensure that they provide a Home Information Pack which includes an EPC for potential buyers
- a builder – an EPC needs to be provided to buyers of newly built properties from 6 April 2008
- a landlord – you will need to provide an EPC which will be valid for ten years, to prospective tenants, the first time you let or re-let your property after 1 October 2008

## **Landlords**

### **When is an EPC needed?**

As from 1st October 2008 where a dwelling is being let an Energy Performance Certificate (EPC) will be required. Prior to the 1<sup>st</sup> October EPC's will have to have been ordered for those properties currently being marketed for rent. At the 1<sup>st</sup> October, the EPC has to be in place prior to any marketing for rent.

An EPC is required as follows:-

- Individual house/dwelling (ie. a self contained property with its own kitchen/bathroom facilities) – **one EPC for the dwelling.**
- Self contained flats (i.e. each behind its own front door with its own kitchen/bathroom facilities) – **one EPC per flat.**
- Bedsits (where there is a shared kitchen and/or bathroom) – **no EPC is required.**
- Shared flats/houses (eg. a letting of a whole flat or house to students/young professionals etc) – **one EPC for the whole house.**
- Mixed self contained and non self contained accommodation – one EPC for each self contained flat/unit but no EPC for the remainder of the property.
- A room in a hall of residence or hostel - **no EPC is required.**
- Individual room in a flat or house (e.g. where a tenant rents a room so he/she has exclusive use of his/her bedroom and shared use of the kitchen toilet and bathroom) – no EPC.

The requirement to make a copy of the EPC available to a prospective tenant does not apply where a landlord has reasonable ground to believe that a prospective tenant is:-

- Unlikely to have sufficient financial means to rent the dwelling
- Not genuinely interested in renting the dwelling of that particular type
- Not a person to whom the landlord would be likely to be prepared to rent out the property.

There are fixed penalties for failing to provide an EPC/make one available when required. The fixed penalty for dwellings is £200 per dwelling. There is a six month time limit for any enforcement action to be taken.

There is nothing to stop you providing this Certificate before the 1st October 2008. However, unlike with Home Information Packs, there is no exemption from the EPC requirement although the property may have been on the market to rent before the 1st October 2008. You

will have to provide an EPC even though you have the property advertised to let before that date.

## **EVERYTHING YOU NEED TO KNOW:**

### **What is a dwelling?**

An EPC is required whenever a dwelling is being rented out. "Dwelling" is a residential property which is self contained. For these purposes a dwelling is self contained if it does not share essential facilities with another unit such as bathroom/shower room, toilet or kitchen. It has to have its own entrance either direct from the outside or from the common parts (such as hall stairs or landings). It is not self contained if access is via another unit. For more information about this see the section below "For what types of property is an EPC required"?

### **Who provides EPCs?**

An EPC must be prepared by a registered assessor. There are a considerable number of firms who produce EPCs. Costs vary.

### **How long does an EPC last?**

Once issued the EPC is valid for 10 years. It can be used time and time again during this period. You do not have to have a new EPC even if you have work carried out to the property. You can of course obtain a new one after work has been done. If you do obtain a new EPC you can only use the latest version; not an earlier one.

If the landlord already has an EPC for the property, e.g. because they have just bought it and the EPC was part of the Home Information Pack, this EPC can be used for subsequent rentals. Likewise, the EPC provided when a newly constructed property was purchased can be used when renting the property out.

If the dwelling is converted so it contains more or fewer separate dwellings new EPCs will be required when each is rented out.

### **What does an EPC do?**

An EPC shows two things. It shows the energy efficiency (i.e. the running costs for the property) and it shows the environmental impact of the property (i.e. carbon dioxide emissions). Each of these is rated A to G with A being the most energy efficient. The A to G Scale is similar to that which is attached to refrigerators. The average rating is likely to be D or E.

So far as energy efficiency/running costs are concerned there is a standardised way in which these are calculated based on the standard consumption of energy and also it is based on the cost of energy at the time the certificate is issued. It is important to remember this when comparing EPCs for different properties prepared at different dates.

Accompanying the EPC will be a recommendations report with suggested works to be carried out. A landlord is not obliged to carry out any of these works.

### **What must the landlord do before letting a dwelling?**

The landlord must:

- Commission and obtain an EPC from a registered assessor
- Make a copy of the EPC available to any prospective tenant free of charge.
- Give the tenant a copy of the EPC before he/she signs the tenancy agreement (again free of charge). This applies even if they have already seen it.
- Prospective tenant/tenants must be shown/given a complete copy of the EPC including the recommendation report.

### **When must an EPC be provided?:**

A copy of the EPC must be made available to the prospective tenants at the earliest opportunity. This means that they must be given the opportunity of looking at the certificate and reading it through.

As a minimum a copy of an EPC must be made available in this way to a prospective tenant:

- When somebody requests information about the property
- When someone makes arrangements to view the property
- When someone makes an offer to rent the property

At this stage you do not need to hand over a copy but you can if you wish. Make available means that the EPC must be made available for the prospective tenant to look at it.

In any event a copy of the EPC must be made available to the tenant before the rental contract is entered into.

Additionally, the tenant must actually be given a copy of the EPC before the tenancy agreement is signed up.

### **How to you hand over the EPC?**

An EPC can be sent electronically provided the tenant/prospective tenant agrees. You should keep a record of handing over an EPC, whether this is done manually or electronically. If done manually you should obtain written receipts. Only a copy need be provided; not the original.

Please note that when there an obligation either to make a copy of the EPC available or to hand over a copy of the EPC, it must be accompanied by the full recommendation report.

### **What about property particulars?**

Where written particulars for the property are prepared by a landlord or agent these must include either a copy EPC (with the recommendation report) or at least the asset ratings shown on the EPC.

### **Who is responsible for an EPC?**

The legal responsibility rests with the landlord but the landlord can arrange with the letting/managing agent to carry out these responsibilities. However, responsibility for compliance would still remain with the landlord.

### **What about emergencies?**

There is a special rule for emergency accommodation but an EPC still has to be provided eventually. This applies where a tenant needs an urgent relocation if there is no valid EPC available and there is insufficient time to commission one. The requirement is still to provide an EPC as soon as is possible.

### **What about tenancy renewals?**

An EPC is not required for the renewal of a tenancy with the same tenant. However, if there is a change in the tenants when the tenancy is renewed e.g. because one tenant moves out and is replaced by another. A copy of the EPC should be provided to the new tenant before they sign up.

### **When is an EPC not needed?**

EPCs are not required if, instead of letting a property out, you grant a licence. For example if you have a lodger who occupies under a licence arrangement then no EPC would be required. Legally, it is quite difficult to validly create a licence so this provision should not be relied upon, other than in cases where there is genuinely a licence in existence with the occupier, rather than a tenancy agreement.

An EPC is not needed if a non self contained property such as a bedsit – see further under the next section. An EPC is not needed for short term holiday accommodation.

The requirement to make a copy of the EPC available to a prospective tenant does not apply where a landlord has reasonable ground to believe that a prospective tenant is:-

- Unlikely to have sufficient financial means to rent the dwelling
- Not genuinely interested in renting the dwelling of that particular type
- Not a person to whom the landlord would be likely to be prepared to rent out the property.

It is important to note that none of these exemption provisions authorises the landlord to do something which is unlawful discrimination.

### **For what types of property is an EPC required?**

The rule is that an EPC is required for individual dwellings which, for these purposes, mean a self contained unit with its own kitchen toilet and bathroom behind its own front door. An EPC is only required on a rental of a building or part of a building designed or altered to be used separately.

An EPC is not required for non self contained accommodation such as bedsits. Renting out individual rooms in a building with shared facilities (e.g. the kitchen toilet or bathroom does not require an EPC).

WARNING – This is the interpretation put on matters by Government lawyers. It may change. It could be open to challenge.

An EPC is required as follows:-

- Individual house/dwelling (ie. a self contained property with its own kitchen/bathroom facilities) – one EPC for the dwelling.
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- Mixed self contained and non self contained accommodation – one EPC for each self contained flat/unit but no EPC for the remainder of the property.
- A room in a hall of residence or hostel - no EPC is required.
- Individual room in a flat or house (e.g. where a tenant rents a room so he/she has exclusive use of his/her bedroom and shared use of the kitchen toilet and bathroom) – no EPC.

### **What is likely to be the impact of an EPC on the tenant?**

The Certificate gives the running cost/estimated costs based on standardised consumption and average fuel prices current with the EPC was produced. Therefore, if tenants are comparing one EPC for one property with another you need to be aware of this, particularly when the EPCs are produced at different times.

Some of the items in the EPC will clearly be under the tenants control eg. amount of fuel consumed and others the landlord could change. The recommendation report will set out lower cost measures (up to £500) and higher cost measures, measures above this figure.

### **How do you get an EPC?**

An EPC must be obtained from an accredited provider. There is nothing to stop landlords undertaking the necessary training. The EPC will be given to the landlord. It will also be recorded on a central register.

### **How are EPCs enforced?**

Local Authority Trading Standards is the enforcement authority. There are fixed penalties for failing to provide an EPC/make one available when required. The fixed penalty for dwellings is £200 per dwelling. There is a six month time limit for any enforcement action to be taken. There is a right for the landlord to request that penalty notices are reviewed and ultimately there is a right of appeal to the County Court against a penalty notice. Trading Standards have statutory powers to require production of an EPC from landlords if they suspect an offence has been committed. Investigation might follow if a tenant complains that he has not been given an EPC. An EPC will still have to be provided even though a penalty is imposed.

### **What about getting into the property to have an EPC prepared?.**

Under the EPC regulations there is an obligation on occupants to co-operate to allow access. Tenancy Agreements may also allow for access. Obviously, prior notification needs to be given to tenants if an energy assessor is going to visit the property.

### **What happens if a property is sub-let?**

If a property is sub-let then responsibility will lie with the landlord under the sub-tenancy (ie. the tenant) to provide an EPC. The landlord is not in breach of the regulations if his tenant creates a sub-tenancy but fails to provide an EPC. However, in this situation, the tenant is entitled to use any EPC which he receives from his landlord to pass onto the sub-tenant.

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