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Energy Performance Certificates for commercial buildings

From the 1st October 2008 there is a legal requirement for energy inspection and energy performance certification on all commercial buildings. These requirements have been implemented in stages during 2008 with buildings over 10,000sqm requiring them from 6th April 2008 and buildings over 2,500sqm from 1st July 2008.

What is an EPC

An EPC is the reaction to the EU's Energy Performance of Buildings Directive (January 2003) requiring a reduction in the CO₂ emissions of buildings. An EPC is a certificate which provides an energy rating of the building (measured in CO₂ emissions) on a colour coded scale from A to G, A being very efficient G being least efficient. The ratings in the EPC reflect the characteristics of the building and its services such as heating, lighting, air conditioning and building construction methods. It also takes into account the age and condition of the building. The EPC is to be accompanied by a recommendation report containing cost effective recommendations to improve the building's energy rating, although there is no obligation to comply with these.

Who is responsible

It is the seller or landlord who is ultimately responsible for ensuring the building has the appropriate EPC. However, the person responsible for marketing the building for sale or let must also ensure that the EPC and a Recommendation Report is made available. The documents must be provided free of charge and at the earliest opportunity.

Tenants should be particularly aware that the definition of 'selling' includes the assignment of a lease and 'renting out' includes the grant of a sub-lease. In these cases the assignor or tenant are responsible for producing the documents free of charge. Lease renewals and lease surrenders will be exempt from the new regulations

Penalties

The penalty for failing to provide an EPC when selling or renting out a commercial property is 12.5% of the rateable value of the building, this being subject to a minimum of \$500 and maximum of £5,000

Costs

The cost of providing an EPC will be market driven, which means that the availability of suitably qualified assessors will dictate the price. Clearly the price will also depend on the size and complexity of the building. So obtaining more than one quote will be advisable, particularly in the early stages of the introduction of the legislation.

Tenant Implications

As already discussed if an existing tenant decides to assign or sub-let their premises they will be responsible for providing the documentation, and therefore the costs, assuming the landlord has no obligation under the implementation time scales.

Costs of EPCs are likely to vary significantly in the early stages of implementation and multiple quotes should be obtained.

The EPC grading creates a new opportunity for negotiation for tenants. A building with a poor EPC rating will have higher running costs and should therefore attract a lower rent than one with a good rating.