



Frequently Asked Questions

Energy Performance Certificates (EPCs)

Who is responsible for obtaining an EPC?

For buildings that are to be sold, the building's owner is responsible; for buildings that are to be rented out, it is the prospective landlord (both are referred to in the Regulations as the 'relevant person'). This certificate should be shown, on request, to any prospective purchaser or tenant, and should in any case be provided by the owner to the ultimate purchaser before a contract for sale is made or tenancy arrangement has been agreed.

Are there any penalties for not making an EPC available?

Civil law applies and DFP officials and Building Control officers from the relevant District Council area will have the duty of enforcement.

These officers can act on complaints from the public or make random investigations themselves and if they believe that you are subject to any of the duties under the Regulations, they can request you produce the relevant documents. This information must be provided within 7 days of the request and the enforcement officers may take copies of any document you provide for inspection.

Failure to comply with their request or the Regulations may result in the issue of a penalty charge notice. Penalty charge notices can only be issued within 6 months of the date when the person concerned was subject to a duty in relation to the building.

In the case of a dwelling, the penalty is £200 and for non-dwellings it is 12.5% of the net annual value for each breach of failing to

- make available, free of charge, a valid EPC to any prospective buyer or tenant;
- give, free of charge, a valid EPC to the person who ultimately becomes the buyer or tenant;

- give an EPC to the owner of the building by the person responsible for having construction work carried out (not more than five days after the work has been completed); and
- make available or give, free of charge, a recommendation report to accompany a valid EPC.

In addition to these penalties, of course, it is still necessary to commission an EPC and recommendation report.

However:

- if you can demonstrate that you have taken all reasonable steps to avoid breaching the Regulations, then the penalty charge notice may be withdrawn; or
- if you believe the penalty charge notice should not have been given you can request a review. If you are not satisfied with the outcome of the review you may appeal to the county court within 28 days after you received notice confirming the penalty charge notice.

How can I find an energy assessor?

All accreditation schemes hold lists of their accredited energy assessors and the site www.niepcregister.com includes a search facility to enable you to find an accredited energy assessor in your area.

How can I become an energy assessor?

An Energy Assessor needs to have both appropriate qualifications or competence and accreditation:

- Qualifications: energy assessors should hold a current qualification in Energy Inspection. This has been developed as part of a National Occupational Standard in Energy Inspection and demonstrates that they have the technical competence to produce a certificate. The qualification is approved by the Qualifications and Curriculum Agency. Qualification bodies have developed assessment procedures that align with the National Occupational Standard; and
- Accreditation: accreditation is the management arrangement that provides reassurance that someone who has the relevant technical experience is permitted to produce a certificate on an ongoing basis. Different accreditation schemes are likely for each sector requiring certificates. To be an energy assessor an individual must be a member of an accreditation scheme. Membership of such a scheme will only last as long as an individual satisfies the accreditation requirements.

An energy assessor may only conduct inspections in areas covered by his or her current qualification and accreditation system.

For details of available training courses and approved qualifications please see:

- www.abbeqa.co.uk/ (Awarding Body for the Built Environment)
- www.cityandguilds.com/cps/rde/xchg/cgonline (City and Guilds) and
- www.nfopp.co.uk (National Federation of Property Professionals).

How much will an EPC cost?

The price of an energy performance certificate will be set by the market and not by the Department. We expect these costs to vary according to the size, type and location of the property. The current predicted cost of a standalone Energy Performance Certificate for an 'average' home is approximately £100. For other buildings, the cost will clearly depend on the size and complexity of the building.

How long will it take to perform an energy assessment?

The time taken to perform an energy assessment will vary according to the size and nature of the property. This is particularly true of commercial buildings where the wide variations in size etc. renders any definition of 'average time' not very meaningful. However, it has been estimated that an average 3 bedroom semi-detached house would take approximately under two hours to complete.

Will an energy assessor have to visit the property?

For existing domestic properties, the accredited energy assessor must base the assessment on a visit. Where an assessment is based on the assessment of another representative apartment or unit, the accredited energy assessor will need to visit a sample of the apartments or units to verify that they are indeed representative. In other cases the assessor must visit the property if s/he has any concerns about the data and should expect to do so unless there is good reason not to.

What happens if my home gets a low rating?

This simply indicates your home could be more energy efficient. During the inspection a number of recommendations to improve its energy efficiency will be identified (in the recommendation report which should accompany the EPC). Implementation of these could not only increase your rating and reduce carbon emissions, but also save money on energy bills. However, it is up to you whether you implement the recommendations or not; the Regulations do not impose a legal duty on you to do so.

What are the benefits to me as a seller or landlord?

A higher energy rating should make a building with a higher rating more marketable than one with a lower rating. The rating indicates to a prospective buyer or tenant how energy efficient your building is and a more energy efficient

building is less costly to run. Also, the recommendation report should also provide information that may help to reduce the running cost of the property even further.

As a seller or landlord do I need to obtain a certificate every time I sell or rent to a prospective buyer or tenant?

No. There is no requirement in the Regulations to produce a new EPC every time there is a sale or new tenancy. A certificate is valid for 10 years and can be used multiple times during this period. If, however, an existing dwelling is sold (or rented out) after this period, the certificate will effectively expire and a new replacement EPC will be required which will, in turn, be valid for another 10 years and so on.

Do dwellings in multiple occupancy, such as a house with bedsits, require an EPC for each room or bedsit?

This will depend on the type of tenancy that has been granted.

Joint and several

If you grant a joint and several tenancy where all the tenants are on one agreement, then this is, in legal terms, no different to letting a normal dwelling to a single family. Therefore, one EPC will be required for the whole dwelling.

Individual let rooms

Where individual rooms in a building are rented out on separate tenancies and there are shared facilities (e.g. kitchen and/or bathroom), an EPC is not required. An EPC is only required for a dwelling that is self-contained, meaning that it does not share essential facilities such as a bathroom/shower room, wc or kitchen with any other dwelling, and that it has its own entrance. This is because an EPC is only required on the rental of a building or part of a building 'designed or altered to be used separately'. Renting a room does not meet the 'part of a building' definition. Put simply, an EPC is only required for a habitable unit if it is self-contained.

Example 1

A house or flat is rented by a number of tenants who have exclusive use of their bedrooms but share a kitchen and bathroom. In this case each tenant has a contract with the landlord for the parts they have access to, but not for the whole dwelling. An EPC is therefore not required each time a tenant moves, although one will be required for the whole house if it is sold, rented as a whole or constructed.

Example 2

A group of friends rent a property and there is a single contract between the landlord and the group for the rental of the whole dwelling (i.e. it is a joint and several tenancy). An EPC is required for the whole dwelling.

Example 3

Individual tenants rent rooms in a hall of residence. Each room does not constitute a building or part of a building designed to be used separately. An EPC is not required, for each individual room. However, an EPC will be required on the whole building if it sold, rented or constructed. It will also be required on self-contained

units within the hall, for example, a self-contained caretaker's flat, if this is sold, rented or constructed.

Certificates must be produced by an accredited energy assessor, but does this mean that a team can gather the data?

A team of people can work on gathering the information for an energy assessment as long as they are working under the direction of an accredited energy assessor. The accredited energy assessor must ensure that anyone visiting a property or gathering information on their behalf is suitably qualified to gather the information. Only accredited energy assessors can produce and register certificates.

An accredited energy assessor may use data previously collected about a building. They must, however, be satisfied that any data about a property has been properly collected and accurately reflects the property as they will be responsible for any data used to produce an EPC.

When is an EPC not required?

You will not be required to produce an EPC if:

- you are not selling or renting your property
- you are selling your home and both parties sign a contract by 30th June 2008
- you are renting your property and both parties sign a contract by 30th December 2008
- you are selling your property and have reasonable grounds to believe that the buyer intends to demolish it on purchase.

If you are constructing a building and have notified Building Control of its completion before 30th September 2008, you will not be required to provide them with a copy of an EPC. However you will still be required to provide an EPC to the prospective buyer or tenant

The following buildings are exempt and therefore do not require an EPC:

- places of worship,
- stand-alone buildings of less than 50 m² (except for dwellings),
- temporary buildings with a planned time of use of 2 years or less, and
- particular buildings with low energy demand (e.g. barns).

Does each apartment or flat need a separately generated EPC?

The definition of a building in the Regulations states that 'a reference to a building includes a reference to a part of a building which has been designed or altered to be used separately'. Consequently, even though a building is divided into parts (or units), where these parts (or units) could only be marketed and sold as a single building, then only one EPC will be required. If, however, they are being sold as separate parts (or units) contained within the one building, then separate EPCs

would be necessary. The critical factor is whether or not each part (or unit) of a building has a separate or common heating system.

Separate heating systems

In this instance, an EPC must be produced for each part (or unit) based on that part's (or unit's) energy use; however, provided these are identical, this may be based on the assessment of a representative part (or unit) in the same block. Thus, in the case of a building containing several parts (or units) but with, say, four different designs types, then, everything else being equal, 4 EPCs would be required for that building.

Common heating systems

For parts (or units) with a common heating system, an EPC must still be produced for each part (or unit), but it may be based on a common certification of the entire building as a whole.

Example 1: care homes

A care home will need an EPC only on construction, sale or rental as a whole building. (The whole building EPC would be based on SBEM, the method for assessing non-dwellings).

There will normally be no requirement for each resident to obtain an EPC. The home's accommodation which is provided with attendant services but without a right of exclusive possession of any part of the building would not usually constitute a letting in respect of which an EPC should be made available. Residency of care homes, student accommodation blocks (see example 3 below), hotel rooms and prisons are likely to fall into this category.

Example 2: sheltered housing

Sheltered housing, by contrast, frequently contains self-contained apartments, either let or owned, with common rooms also provided for social and recreational purposes, with use of them also governed by the terms of the lease of the individual accommodation. In this circumstance an EPC would be required for each self-contained apartment when rented or sold.

Example 3: student accommodation blocks

An EPC would be required when the whole building is built, sold or rented. Whether an EPC should be given to persons who take up residence would depend on the arrangements in the accommodation in question. No EPC is likely to be needed in a hostel or hall of residence open only to students of a particular institution and for the duration of their studies and subject to institutional discipline. In the case of student accommodation where each student has a self-contained study bedroom but shares other facilities with several other students, please see the "dwellings in multiple occupancy" FAQ above.

Example 4: shared or communal areas that accompany parts (or units) with separate heating systems

Where a building has parts (or units) with separate heating systems and a common space, the seller or landlord will be required to provide an EPC for the whole building only if it is being sold or let as a whole. Otherwise the seller or landlord will be required to provide an EPC for each part (or unit) being sold or let plus an additional EPC for the common space. The prospective buyer or tenant can then make their decision on the basis of the energy rating for the part (or unit) and the energy rating for the common space that serves that part (or unit).

Is an EPC required for buildings which are sold or rented out as core or shell buildings (i.e. without services)?

For shell and core buildings, such as commercial retail/warehouse units for example, not all the services will be installed (especially lighting, mechanical ventilation and cooling) at the point where the building is sold or rented out. However, where they will be fitted out and there is an expectation that energy will be used to condition the indoor climate, an EPC should be provided by the builder.

The EPC should be based on the maximum design fit out specification as used for compliance with Part F of the Building Regulations. (Part F ensures that building work conforms to energy performance standards). Where insufficient information is available (for example, no services have actually been installed), Part F defaults to the 'worst' energy rating allowed under Part F. Therefore the most energy intensive fixed services fit out allowed under Part F will be assumed for the purposes of the certificate.

Any subsequent fit out will, of course, need to comply with Part F of the Building Regulations. Should the owner or tenant choose a more energy efficient specification than that assumed at the point of sale or rent, a subsequent EPC may be requested by the owner or tenant to reflect the actual energy rating of the building. However, there is no legal duty to do so.

Do buildings which have been extended or modified require an EPC?

Where construction work is undertaken to a building and the modifications

- change the number of parts designed or altered for separate use and
- include the provision or extension of any fixed services for heating, hot water, air-conditioning and mechanical ventilation

an EPC must be given to the owner of the building by the person responsible for having the construction work carried out (i.e. the builder). The EPC must be given to the owner and a copy to Building Control not more than five days after the work has been completed.

Can I use rdSAP to produce an EPC for a new dwelling on construction?

No - rdSAP is the methodology used by accredited Domestic Energy Assessors (DEAs) to produce EPCs for existing dwellings. A DEA is not qualified to assess a new dwelling on-construction.

From 30th September 2008 an EPC for a new dwelling can only be calculated by an On-Construction Energy Assessor (OCEA). The OCEA is trained in the use of SAP 2005 as the assessment tool to produce the EPC by a full SAP calculation.

Although an OCEA may also be an accredited DEA, when undertaking an on-construction EPC assessment, he must use the full version of SAP.

Display Energy Certificates (DECs)

What is the policy behind the requirement to display a DEC?

The introduction of DECs will raise public awareness of energy use and will inform visitors to public buildings about the energy use of a building. DECs provide an energy rating of the building from A to G, where A is very efficient and G is the least efficient and they are based on the **actual** amount of metered energy used by the building over a period of 12 months.

An affected organisation must display a DEC in a prominent place clearly visible to the public and have in its possession or control a valid advisory report. The advisory report contains recommendations for improving the energy performance of the building.

The introduction of DECs will for the first time give publicly accessible information on the energy performance of public buildings. It is important not only that the public sector complies but that it is seen to be setting an example. Environmental performance is increasingly important to reputation. (Accordingly if there is any doubt over whether a DEC is required, it would be good practice to produce a DEC in any event).

What criteria are used to determine if a DEC is required?

1. A building (or part of a building which is designed or altered to be used separately) with a total useful floor area of over 1000m². (Total useful floor area is defined as the total area of all enclosed spaces measured to the internal face of the external walls, including areas such as staircases and galleries).

2. This building must be occupied by either:

- a **public authority**. A public authority includes central or local government departments and some non-departmental public bodies; or

- an **institution** providing a public service to a large number of persons. An institution providing a public service is one that provides services that are traditionally provided by local or national government, or are traditionally funded by the taxpayer. If the management of a public service is contracted out, the duty is still likely to apply. Furthermore, a DEC would only be required where the majority of the funding of the institution providing a public service is from the public purse (i.e. it is not more than 50% privately financed).

3. The building must also be frequently visited. If the building is provided for members of the public to visit in order to receive a public service then a DEC should be provided. Since a DEC is designed for public use, there is no reason to provide one if it will never or only exceptionally be seen by a member of the public (for example, the building is only visited by employees or by invitation).

Public authorities and institutions would include, for example:

- NHS Trusts
- Healthcare centres (but not private care/nursing homes)
- Hospitals (but not private hospitals unless NHS patients are admitted as well)
- Leisure centres (but not private health clubs)
- Schools and higher education authorities, including universities (but not private schools)
- Large central post offices
- Police stations, prisons and courts
- Public libraries and
- Museums and Art galleries sponsored by public authorities.

The aim of the Directive is for the public to receive energy information about a building they are visiting. The Department would seek to encourage the provision of this information, wherever possible, even if it is not legally required.

Which buildings will be affected by the requirement to display a DEC?

Only buildings with a total useful floor area greater than 1000m² occupied or part occupied by public authorities and institutions providing public services to a large number of persons and frequently visited by those persons are affected by this legislation.

Where a building is partly occupied by a public authority or a relevant institution, the authority or institution is responsible for displaying a DEC and having a valid advisory report. Other private organisations occupying the building, irrespective of the size they occupy, do not need to display a DEC.

The phrase "large number of persons and are therefore frequently visited by those persons": what does this mean in practice?

This phrase appears in the Directive and no further definition is provided. Since the objective of the Directive, as stated, is to promote the improvement of the energy performance of buildings, on this basis, it would be sufficient to have a few visitors a week to a building for an occupier to qualify.

Both the number of visitors and the recurrence of the visits are required to qualify. Thus, a large number of visitors merely once or twice a year (for example a public show on a site normally closed to the public), would not qualify, nor would one or two persons making frequent visits.

Who is responsible for ensuring that a DEC is displayed?

It is the responsibility of every occupier of a building affected by the Regulations to display a DEC in a prominent place clearly visible to the public and to have in his/her possession a valid advisory report, on or after 30th December 2008. Action is required now to ensure annual energy information is available by this date. A DEC shows the energy performance of a building based on actual energy consumption and is valid for 12 months. An advisory report is valid for 7 years.

How do I get a DEC?

An energy assessor, accredited to produce display energy certificates for that type of building, is the only person who can produce a DEC and Advisory Report for your building.

The energy consumption data you provide will be reviewed by the assessor in line with the approved method and adjustments may be made for occupancy, intensity of use, special energy uses, weather and climate.

The carbon dioxide emissions for the certificate are based on the adjusted energy consumption and total useful floor area and building type to give a measured CO₂ emission per m².

The assessor will then produce a DEC and an Advisory Report from this information in line with the approved method. The DEC will need to be lodged in the register by the assessor and given a unique certificate reference number.

What does a DEC contain?

A DEC must contain the following information:

- the operational rating and the asset rating (if available) as determined by a methodology approved by the Department. If you are in possession of an EPC, then you will have an asset rating for the building which shows the performance of the building's fabric and its fixed building services (such as heating and lighting) based on standard assumptions as to how it is used. If you have an asset rating, this must be displayed on the DEC;

- the operational rating for the building expressed in any certificates displayed by the occupier during the last two years before the nominated date; and
- include reference values such as a current legal standards or benchmarks.

The DEC will also show the unique certificate reference number, the address of the building, the total useful floor area of the building, the name of the energy assessor, their employer (or trading name if self employed), the name of their accreditation scheme and the date when the DEC was issued.

The DEC must be accompanied by an Advisory Report containing cost-effective recommendations for improving the energy efficiency of the building. The report will include zero and low-cost operational and management improvements, possible upgrades to the building fabric or services, and opportunities for the installation of Low and Zero Carbon (LZC) technologies. It should enable the occupier to identify what may be done to improve, for example, building energy management, building services, etc. therefore reducing energy consumption and CO₂ emissions.

DECs are valid for 12 months, Advisory Reports for 7 years.

What information should be collected to produce a DEC?

If you are affected by this legislation and are required to display a DEC by 30th December 2008, you should start collecting energy consumption data now. You will need to obtain actual meter readings or consignment notes for all fuels used in your buildings that are affected by this legislation. This may include gas fuels, oil fuels, solid fuels, district heating and cooling, grid electricity and electricity generated on site or obtained by private distribution systems from other sites.

For district heating and cooling and electricity generated on site, or obtained by private distribution systems from other sites, you will also need to obtain the average carbon factor for the service over the accounting period e.g. in kg of carbon dioxide per kWh delivered.

You can obtain this information from a number of sources:

- on-site energy meters
- the building landlord or representative
- the utility supplier
- the district heating/cooling provider.

For affected buildings that are on a site or campus, energy metering information can be collected at site level rather than building level. Although multiple small buildings on a campus where each building is less than 1,000 m² are excluded, if these buildings are linked to one another by a heated space or are served by the same heating or cooling system then a DEC is required. The energy consumption for each separate building or each group of linked buildings with total useful floor

area exceeding 1,000 m², will then be derived by proportioning on the basis of floor area.

What information am I required to provide if I am a recent occupier of the building?

The operational rating is not required where an occupier has been in occupation for less than 15 months. The asset rating is not required in the display energy certificate where an occupier entered into occupation of the building before 31st December 2008.

Which buildings on a campus require a DEC?

Only buildings visited by the public that are over 1000 m² require a DEC.

Buildings on a campus that are readily accessible to the public and visited frequently (for example, for meetings) will require a DEC.

Buildings that are not visited frequently (such as restricted access research labs) will not.

Are there any penalties for non-display of a DEC?

Civil law applies and DFP officials and Building Control officers from the relevant District Council area will have the duty of enforcement.

These officers can act on complaints from the public or make random investigations themselves and if they believe that you are subject to any of the duties under the Regulations, they can request you produce the relevant documents. This information must be provided within 7 days of the request and the enforcement officers may take copies of any document you provide for inspection.

Failure to comply with the request of the enforcement officers, or the Regulations, may result in the issue of a penalty charge notice. Penalty charge notices can only be issued within 6 months of the date when the person concerned was subject to a duty in relation to the building.

The penalty for each breach is £500 for failing to display a DEC at all times in a prominent place clearly visible to the public and £1,000 for failing to have possession of a valid advisory report. In addition to these penalties, of course, it is still necessary to commission a DEC and an advisory report.

However:

- if you can demonstrate that you have taken all reasonable steps to avoid breaching the Regulations, then the penalty charge notice may be withdrawn; or
- if you believe the penalty charge notice should not have been given you can request a review. If you are not satisfied with the outcome of the review you

may appeal to the county court within 28 days after you received notice confirming the penalty charge notice.

General

What are the main differences between Northern Ireland's legislation and England and Wales?

In England and Wales the requirement for an EPC forms an integral part of the Home Information Packs (HIPS). There are no plans to introduce HIPS here. In Northern Ireland, the EPC must be made available at the earliest opportunity before the conveyancing process commences and, as a constituent document in this process, it must be provided as part of the completion of the sale.

In England and Wales, estate agents who are providing written particulars for a property being marketed for sale, will need to include the graphics showing the energy efficiency rating and the environmental impact rating for the property, or attach the EPC (but not the Recommendation Report) to the particulars. There is no equivalent provision in Northern Ireland's Regulations.

Are there any plans for more EU Directives in the future?

The EU Directive 2002/91/EC on the Energy Performance of Buildings (EPBD) aims to promote the energy performance of buildings within the European Community. As such this legislation marks merely a stage, albeit a very important one, in achieving the EU's carbon emission reduction targets as set out in:

- the Kyoto Protocol (8% reduction between 1990 and 2010) and
- the Energy Policy for Europe (20% reduction by 2020).

Discussions are already on-going examining the most effective ways to recast this original EPBD to better reflect our current knowledge and technologies. For more information please see:

the background paper for the public consultation on the recasting of the EU Directive

http://ec.europa.eu/energy/demand/consultations/doc/2008_public_consultation_buildings_background_en.pdf

draft recast of the EU Directive

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/693&format=HTML&aged=0&language=EN&guiLanguage=en>

the Second European Strategic Energy Review

http://ec.europa.eu/energy/strategies/2008/2008_11_ser2_en.htm.