



## PainSmith Solicitors Legal Update

29 January 2008

### Energy Performance Certificates in Let Property

Many landlords and agents will be aware that property that is for sale in England & Wales requires an Energy Performance Certificate (EPC) to be supplied to the purchaser as part of the Home Information Pack (HIP). This requirement will be applied to let property during the course of 2008, both residential and commercial.

The provisions are part of The Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2007 SI 2007/991. This can be found in full at [http://www.opsi.gov.uk/si/si2007/uksi\\_20070991\\_en\\_1](http://www.opsi.gov.uk/si/si2007/uksi_20070991_en_1).

The requirement is set out in regulation 5 which demands that a prospective tenant be provided with an EPC at the earliest opportunity and certainly prior to entering into any contract to rent out the property. The regulation goes on to state that the certificate must be provided at the earlier of the prospective tenant being provided with written details about the building or the prospective tenant viewing the building. If the prospective tenant consents the certificate can be provided electronically.

Commercial properties with a useful floor area of more than 1,000 sq metres which are occupied by public authorities or institutions providing public services are also required to produce a Display Energy Certificate which must be prominently displayed in the premises. This is unlikely to be an issue for readers of this update.

EPCs are provided by accredited energy inspectors as they are for HIPs. Note that a domestic energy inspector cannot provide a commercial EPC and vice versa. Energy Inspectors will need to undergo training and assessment by one of a number of government-approved organisations and will then need to pay an annual subscription to maintain their status. Qualified surveyors do not automatically qualify as energy inspectors but they will be able to qualify more easily.

Note that the only requirement for let property is to provide an EPC and that no other part of the HIPS regulations applies to rental property.

EPCs remain valid for 10 years or until another certificate is produced for the same property. Therefore agents and landlords must make sure they always have the most recent certificate on file.

The regulations come into force for commercial premises with a useable floor area in excess of 500 sq metres on 6 April 2008 and for all other premises, including residential properties, on 6 October 2008. There have been suggestions that these

provisions may be delayed but this will most likely only be done for the April date and there is unlikely to be any delay over introduction of EPCs for residential lets.

The upshot is that from October 2008 agents will need to get EPCs for properties that they are marketing to new tenants. There will be no need to get EPCs for current tenancies or renewals to the same tenants. The EPC will then need to be renewed every ten years.

In terms of the practical position there will be a large number of EPCs required as the regulations come into force and this will then tail off after a few months as many properties coming onto the market will have their own EPCs already from previous sale or rental. Agents will need to consider the best way to deal with the initial spike and then how they will handle matters long-term. Most agents will be best to contact their HIPs provider (if they have a sales arm) or make an arrangement with an energy inspector in their area. Larger agents, who anticipate a significant volume of work may be better to consider employing an energy inspector 'in-house' on a short-term contract to cover the initial rush and then contract the work out once this has been dealt with.

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