

REALESTATE

Bulletin September 2008



Are Real Estate companies prepared for new energy performance laws?

From October 1 2008 all commercial buildings will have to have an Energy Performance Certificate (EPC) whether constructed, sold or let. Commercial property owners are being urged to take early action to take account of the new process and to ensure that cost apportionment is properly considered. Companies should also prepare for the inspection of larger air conditioning systems which is required from January 2009.

Background

Britain has done much in recent years to shed its old reputation as “the dirty man of Europe”. Its performance in bringing in new regulations to improve the energy efficiency of buildings hasn't exactly enhanced its green credentials.

The new rules originate from the European Union; specifically article 7, 9 and 10 of the European Performance of Buildings Directive (EPBD), which dates back to early 2003.

Aware that the property sector accounts for 40% of the EU's carbon emissions – more than for transport or industry – the Directive requires member states to apply more demanding standards for new and refurbished buildings to improve energy consumption. The original goal was to cut consumption by more than 20% by 2010 and reduce CO² emissions.

This target now looks unlikely to be met, with the majority of European countries being slow in enacting the Directive.

Indeed the European Commission's Internal Market Scoreboard, a regular indicator of how EU law is being implemented across Europe, confirms the EPBD as one of the worst performers in meeting the enactment deadline.

Central to the new regulations is the requirement for EPCs for all properties when they are constructed, sold or let. The EPC awards one of seven grades based on a building's energy efficiency, ranging from 'A' (extremely efficient) to 'G' (poor), and is accompanied by a report suggesting how the rating could be improved.

The UK has been amongst the worst offenders for procrastination, being forced to ask for an extension to the deadline for implementing the Directive into law. Along with some East European countries, it was threatened with fines by the EU for delaying. The three articles were finally implemented into law in England and Wales as The Energy Performance of Buildings (Certificates and Inspections) Regulations 2007 and were published by the government on March 29 2007.



JARDINE LLOYD
THOMPSON
Limited



With the introduction last summer of Home Information Packs, of which EPC's are the main element, extending the requirements to commercial buildings has not been without its difficulties. This is partly due to a shortage of suitably qualified assessors, leading to the new regime being introduced in three stages. Nevertheless, EPC's are now a fact of life and are here to stay.

Phased approach

The first phase, introduced on April 6 2008, required EPC's for any commercial building with a floor area of more than 10,000 square metres that is constructed, sold or rented. The second phase, from July 1, extended the requirement to commercial buildings with an area exceeding 2,500 sq m. Finally, it will apply to all other commercial buildings from October 1 2008. However, the government have recently announced that where properties are already in the market prior to 1st October, these properties can continue to be marketed without an EPC until 3rd January 2009.

The penalty for failing to comply is 12.5% of the rateable value of the premises, subject to a minimum of £500 and maximum of £5,000. Although an EPC is required when a building is to be let or sold, it only becomes compulsory once contracts are exchanged.

But Paul Chitty, portfolio manager for Morley Fund Management, advises owners and developers against leaving the EPC process until the last minute. Obtaining relevant and detailed information for the Certificate can prove a lengthy process and there is currently a shortage of accredited assessors, which is impacting on delivery.

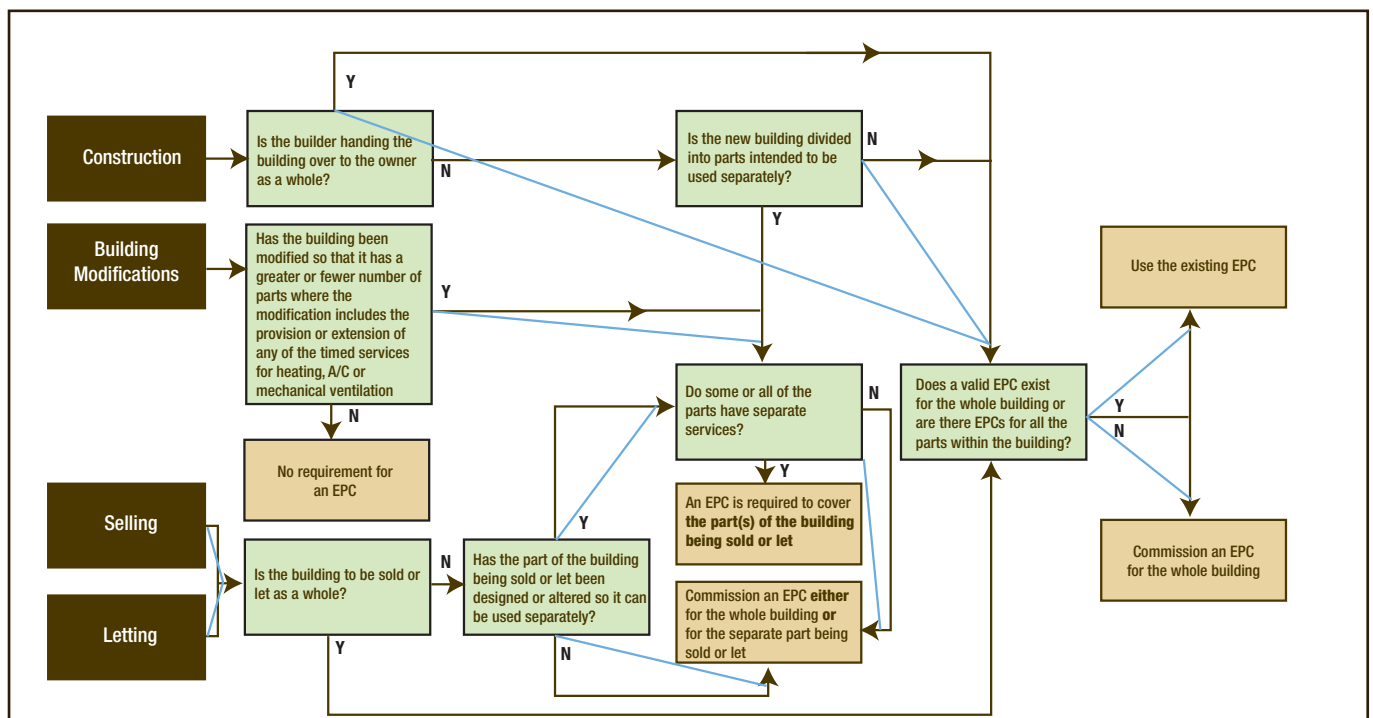
There is also the issue of apportioning cost. Morley and other major landlords are seeking to recover the cost of communal EPC's for multi-let buildings through the service charge as it's for the benefit of everyone letting or sub-letting. But until this idea gets past the proposal stage, it's likely tenants will maintain that landlords should bear the entire cost.

Also from October 2008, Display Energy Certificates (DECs) will have to be clearly shown in all larger public buildings such as hospitals and libraries, so the general public can see the building's energy efficiency rating. There has been much debate as to whether the UK should follow EU countries that also deem "public buildings" to include shopping centres, but as yet they are not subject to the DEC requirement.

Ratings benefit

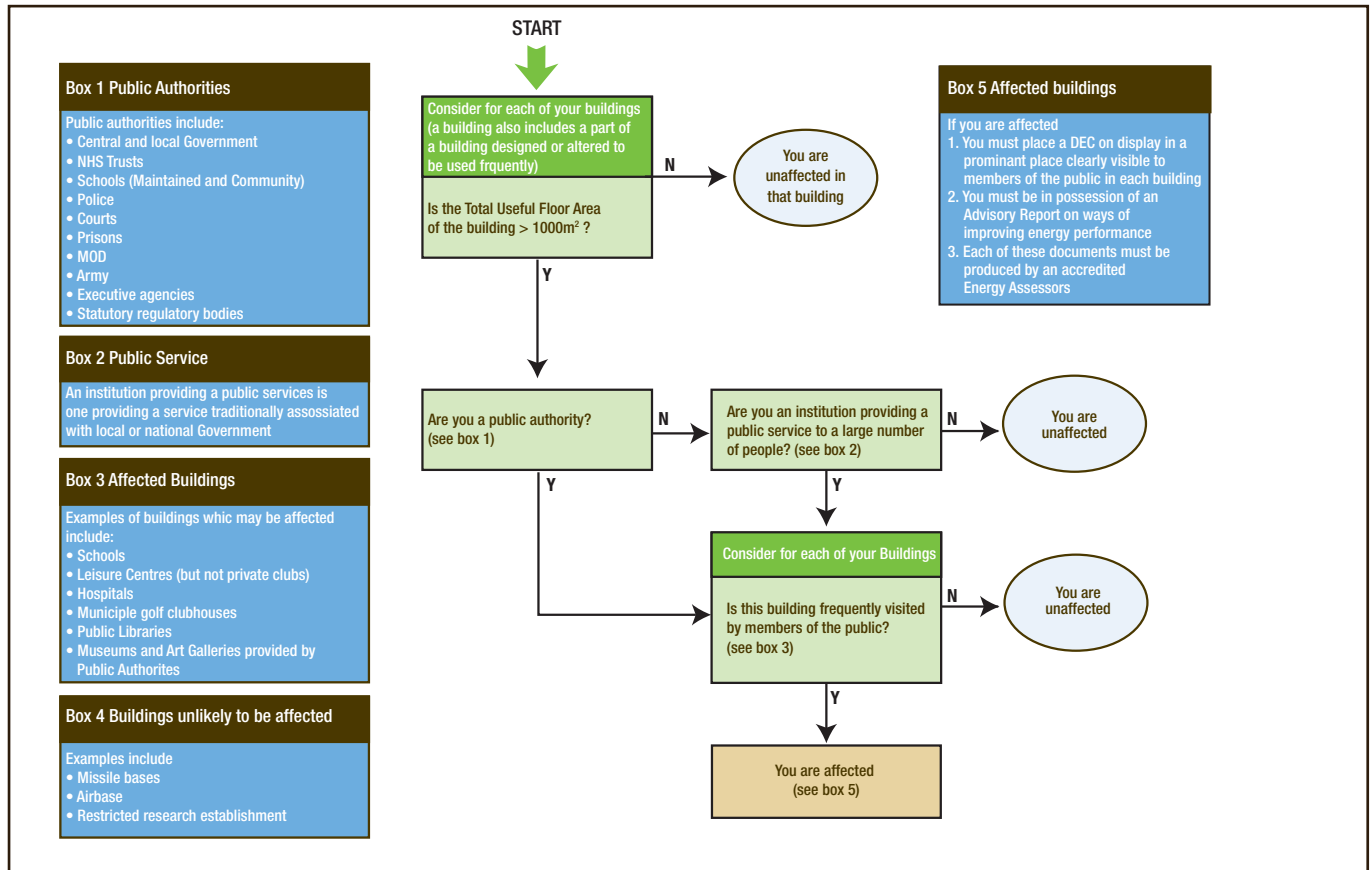
The ratings are good publicity for owners and developers whose buildings score well, says Michael Catt a partner of property consultant King Sturge. Realistically though, a 'C' grade is probably the best that any property more than two years old can attract. Only new buildings, specifically designed to produce practically no CO² emissions and with their own sources of renewable energy, are credible candidates for an 'A' rating.

Flowchart to help determine whether your building requires an EPC





Flowchart to help determine whether your building requires a DEC



Paul Chitty observes that EPC's will impact on the ability to let a building and its value, but this will take time to filter down into the market. Due to the current state of the investment market, there is as yet little evidence of occupiers opting for a 'C' rated building over one rated 'D' or 'E'. Other factors, such as price, rent and location, are equally influential to a potential purchaser or tenant.

However, longer-term it is clear that the European Council will further step up efforts to increase energy efficiency and reduce carbon emissions. This may result in the UK government using fiscal measures as an incentive for 'greener' buildings by penalising poorly rated ones.

Don't forget air conditioning inspections

While owners and developers get to grips with EPC's they should also be aware of further impending legislation under Article 9 of the EU Directive, says Ben Thompson of JLT's Construction & Real Estate division.

From January, inspections will be mandatory for larger air conditioning systems to ensure that they work efficiently and use the lowest amount of energy required to maintain an ambient temperature. Buildings with air conditioning of more than 250 kilowatts must have a first inspection completed by January 4 2009. The inspection includes advice on improving the efficiency of the system, finding a replacement and other solutions.

The first inspection of all remaining air conditioning systems over 12kW must be carried out by January 4 2011.

It has to be said that the government hasn't advertised the EPC scheme very well and largely left it to the property industry to carry out the necessary compliance, observes Ben Thompson. But while all of these regulations involve short-term expense, over the long term companies can expect enhanced returns on better-graded properties and their value for investors will be differentiated.

Energy efficient properties will also benefit the many commercial organisations that have sustainability policies endorsed by senior management, and which recognise the need to convince their customers they are environmentally friendly.

Keeping you compliant

In conjunction with RSA, Jardine Lloyd Thompson Limited has developed a product aimed at ensuring our customers are compliant with the Energy Performance of Buildings Directive. Through RSA's work with the Department of Communities and Local Government we have gained an insight into both the legislation and how best we can ensure compliance for property owners and construction companies alike.

RSA's dedicated Energy Management team have been working with their industry partners Charterhouse Energy Limited to develop a range of products for commercial clients which include:

- Provision of Energy Performance Certificates (EPC's) to ensure compliance
- Energy audits to identify opportunities to improve Energy grading
- Air conditioning energy audits to ensure compliance
- Energy consumption calculations to demonstrate Part L compliance.

For all types of non-domestic and domestic buildings, our service includes full provision of Energy Performance Certificates and Display Energy Certificates (DECs) as required by Law.

Please contact your usual JLT representative for assistance or contact:

John Searing +44 (0) 20 7528 4557
john_searing@jltgroup.com

Ben Thompson +44 (0) 20 7528 4027
ben_thompson@jltgroup.com

Top Tips

- Ensure you are aware which (if any) of your properties will be subject to the new legislation. This will depend on the size and use of the property.
- Formulate a strategy, review which buildings you are going to sell, modify or lease (in whole or part) over the next 12 months and prioritise.
- Budget for compliance costs and any potential improvements to your assets as a result of your energy grade.
- To save cost and time, collate the information needed to complete an EPC prior to the implementation of the Directive. It requires details such as:
 - a. the individual spaces or zones in use within the building, and their dimensions (either as verified from plans or as measured). This information is most readily provided by building plans
 - b. the activities conducted within the zones. Examples of zones include retail space, office space, kitchens, storage etc.
 - c. the heating and ventilation services for each zone (including type of system, metering, controls, fuel used etc.)
 - d. the lighting and controls used for each zone
 - e. the construction of the fabric of the building and thermal efficiency of the materials used: roof, floors, walls and glazing.
- If you are required to produce a Display Energy Certificate make sure you have the last 12 months of utility bills available, preferably in electronic format.
- It is the user/operators responsibility to make sure the energy assessment of air conditioning audits is carried out. Understand the size of your units and engage with a competent person to complete the inspection.
- Make sure you have adequate CAD or floor plans.
- Go to the communities and Local Government website to see your full responsibilities as landlord or tenant with regard to Energy Performance of Buildings Directive visit:

www.communities.gov.uk/epbd

The JLT Real Estate Team specialises in providing services to investors in the real estate sector. Clients include leading plc's, REITS, pension funds, managing agents, development companies and others. Services range from arranging insurance of property portfolios, and the activities of facility managers, through to risk and insurance advice on corporate activity and development projects.



**JARDINE LLOYD
THOMPSON**
Limited

Lloyd's Broker. A member of the Jardine Lloyd Thompson Group. A company incorporated with liability limited by shares. Authorised and regulated by the Financial Services Authority. Registered Office: 6 Crutched Friars, London EC3N 2PH. Registered in England No. 1536540. VAT No. 244 2321 96. Tel: 020 7459 5500 Fax: 020 7459 5530. © September 2008. www.jltgroup.com