

Changes to EPC legislation

There have been important changes to the legislation concerning the provision of Energy Performance Certificates, with effect from 5th April 2012. Members are offered the following information, courtesy of the Residential Landlords Association www.rla.org.uk

From 6th April 2012 changes to the legislation on energy performance certificates (EPCs) will be introduced.

Below are the key points in the new legislation:

An EPC must be commissioned before marketing a property for rent

Unless you already have an EPC available you must commission an EPC from an EPC provider before you first put the property on the market for rent.

An EPC should be made available within seven days of a property first coming on to the market.

You must make reasonable efforts to make sure that an EPC for the property is available within this seven day period. If, despite using all reasonable efforts you cannot secure that an EPC is available at the end of this seven day period you must make sure that the EPC is obtained before the end of a further period of 21 days. Thus, there is an absolute duty to make sure that it is available within 28 days of the property first being marketed.

An EPC must be available to any prospective tenant as early as possible.

In particular it must be made available when a prospective tenant requests information or asks to view the property. A copy must be handed over to the tenant before signing the tenancy agreement. These rules have always been in place but many of mistakenly thought different. The rules have therefore been amended to make it clear what must be done.

Agents must be satisfied that the landlord has commissioned an EPC or has one available before marketing the property on their behalf.

It becomes the responsibility of a letting agent to ensure that this has been done.

The front page of the EPC must be attached to any written particulars

The first page of the EPC must be made available with any written particulars

In relation to a building to be rented out, the duties apply to any written description of the property which includes at least two of the following:

- a photograph of the building or any room in the building,
- a floor plan of the building,
- the size of the rooms in the building,
- the measured area of the building, or
- the proposed rent.

The wording of the legislation indicates that this does not apply to written advertisements such as those in newspapers magazines or to window displays.

When given in hard copy form this only applies when given to a specific individual who is interested in the property.

If advertising online alongside the written particulars a copy of the EPC must be provided. This applies if what you display on line amounts to written particulars (see above for the definition).

Therefore, if, for example, you display a photograph and give the rent on line the first page of the EPC must also be made available. You must actually have an EPC before displaying written particulars on line. The operator of the EPC Register has provided a technical solution which enables letting agents to retrieve EPCs from the register and attach them on line. This is not available to individual landlords; only agents.

Note: You can reduce the EPC in size so long as it is legible when attaching it to written particulars or displaying it on line. It can also be in black and white or colour. Only the first page need be provided; not the rest of the Certificate.

Evidence of commissioning an EPC must be available on request to Trading Standards Officers (TSOs)

TSOs have the power to investigate, require the production of EPCs and serve penalty notices. The penalty is £200 for residential buildings. This now extends to checking that an EPC has been commissioned.

The first page of the EPC has been re-designed.

This will be issued from April 1, 2012. Unlike the old EPC, the new one contains the financial savings that would be made if the suggested energy improvements are carried out.

These new Rules only apply to properties which are first marketed for rent on or after the 6th April 2012. They do not apply if the property is already on the market for rent.

Similar rules apply if you are selling a property.

There are no changes, however, to the types of property for which an EPC is required.