



Energy Performance Regime from 9 January 2013

	EPC¹ on sale or rent²	EPC on marketing	EPC asset rating³ in advertisements⁴ (NEW)	Display EPC (NEW)	Display DEC⁵
Energy Performance of Buildings (England & Wales) Regulations 2012⁶ (click here to view)	Regulation 6.	Regulation 7.	Regulation 11.	Regulation 10.	Regulation 14.
Building⁷ type	Residential & non-residential.	Residential & non-residential.	Residential & non-residential.	Residential. ⁸	Non-residential.
When required	On sale or letting of a Building.	On sale or letting of a Building where there is not a valid EPC available.	On sale or letting of a Building where: <ul style="list-style-type: none"> a valid EPC is available;⁹ building is advertised in commercial media.¹⁰ 	Buildings: <ul style="list-style-type: none"> frequently visited by the public;¹¹ and with a total useful floor area¹² >500m²; and an EPC has been provided under Reg 6 (or the Building Regulations 2010). 	Buildings: <ul style="list-style-type: none"> occupied by a public authority; frequently visited by the public; and with a total useful floor area >500m².¹³
Obligation	To provide free of charge a valid EPC at the earliest opportunity and at the latest: <ul style="list-style-type: none"> when information about the building is made available; or at the time the prospective buyer/tenant views the building. <p>Recommendation Report¹⁴ generally to accompany the EPC.</p>	Must commission an EPC before the building is put on the market. <p>Must use reasonable efforts to get a valid EPC within 7 days of the building being first marketed.</p> <p>In any event the EPC must be obtained within 28 days of the building being first marketed.</p>	Asset rating must be given in any advertisement in commercial media.	Display any existing valid EPC provided under Reg 6 or the Building Regs 2010 in a prominent place, clearly visible to visiting members of the public.	Obtain and display the DEC in a prominent place, clearly visible to visiting members of the public. <p>Recommendation Report generally to accompany the DEC.</p>

Who has to comply	<ul style="list-style-type: none"> • Seller (in relation to a building to be sold). • Landlord (in relation to a building to be let). 	<ul style="list-style-type: none"> • Seller. • Landlord. • Agent acting on their behalf. 	Unclear. Probably the party placing the advertisement. Could be <ul style="list-style-type: none"> • Seller; • Landlord or Tenant; • Agent acting on their behalf. 	Unclear but DCLG guidance states it is the Building occupier: <ul style="list-style-type: none"> • the tenant in relation to single lets; • the tenant responsible for the demised premises and the land-lord for common parts in multi let buildings. 	Public Authorities. ¹⁵
Exempt buildings¹⁶	<ul style="list-style-type: none"> • Listed buildings (Reg 5(1)(a)); • Buildings used for worship or religious activities (Reg 5(1)(b)); • Temporary Buildings with time use of < 2 years (Reg 5(1)(c)); • Low energy demand non-residential buildings (Reg 5(1)(d)); • Some non- residential agricultural buildings (Reg 5(1)(e)); • Residential buildings occupied on a short term basis (Reg 5(1)(f)); • Stand-alone¹⁷ buildings < 50m² (Reg 5(1)(g)). 				None.
Other exemptions	Buildings that are to be demolished (Reg 8(1) & (2)). If buyer/tenant has: <ul style="list-style-type: none"> • insufficient means; • not genuinely interested. The seller/landlord is not prepared to sell/let to that prospective buyer/tenant.	Buildings that are to be demolished (Reg 8(1) & (2)).	A valid EPC is not available.	A valid EPC is not available. ¹⁸	None.
Enforcement	By local weights and measures authority (Trading Standards).		No provisions in the Regulations.		By local weights and measures authority (Trading Standards).
Penalties	Failure to have an EPC: <ul style="list-style-type: none"> • for a dwelling £200; • for a non-dwelling 12.5% of rateable value up to a maximum of £5000¹⁹. Failure to produce an EPC to an enforcement authority £200.		No provisions in the Regulations.		<ul style="list-style-type: none"> • Failure to have a valid DEC £1000. • Failure to display valid DEC £500. • Failure to produce a DEC to an enforcement authority £200.

Notes

¹ An **EPC** contains an 'asset rating' which indicates the energy performance of the building's fabric and its services. It is calculated using standardised energy usage patterns (not actual energy consumption at the building). It is valid for 10 years from the date of registration on the EPC register unless it is replaced by a newer EPC. An EPC must be accompanied by a Recommendation Report **unless** there is no reasonable potential for energy performance improvements compared to the energy performance requirements in force.

² An EPC must also be supplied under the Building Regulations 2010 where certain works are undertaken.

³ **Asset rating** is defined as a numerical number (not the EPC graph or A - G rating).

⁴ This replaces the previous requirement to attach the front page of EPC to written material.

⁵ A **DEC** contains an 'operational rating' which is calculated using meter readings for the services provided to the building. DEC's are valid for 12 months in the case of buildings over 1000m² (as previously the case) for 10 years for all other buildings.

⁶ DCLG Guidance can be found at <https://www.gov.uk/government/publications/improving-the-energy-efficiency-of-our-buildings>.

⁷ **Building** is defined in Regulation 2 as "a roofed construction having walls, for which energy is used to condition the indoor climate and (other than in regulations 9(4) and 11) reference to a building includes reference to a building unit in that building.

⁸ **Dwelling** is defined as "a building or part of a building which is occupied (or intended to be occupied) as a separate dwelling." If a dwelling shares facilities such as a kitchen or bathroom, it will not be classed as a dwelling.

⁹ If a valid EPC is not available, the building can be advertised without reference to the asset rating. The asset rating will need to be referred to once a valid EPC is available.

¹⁰ **Commercial media** is undefined but is likely to include the internet, newspapers, magazines, sales particulars, flyers and window cards.

¹¹ **Frequently visited by the public** is undefined. DCLG Guidance indicates that members of the public must visit on a daily or near daily basis and have an express or implied licence to enter. This will include shops, restaurants, leisure facilities, stations, airports etc. It could also include high street offices that can be visited by the public without an appointment.

¹² **Total useful floor area** is equivalent to the definition of "gross internal area" in the RICS Code of Measuring Practice.

¹³ Before 9 January 2013 the size threshold was a total useful floor area over 1000m². From 9 July 2015 the size threshold will reduce to a total useful floor area of 250m².

¹⁴ A **Recommendation report** is a report containing recommendations made by an energy assessor for the cost effective improvement of the energy performance of a building. The reports are valid for differing periods, broadly:

- 10 years for a recommendation report accompanying an EPC;
- 10 years for a recommendation report accompanying a DEC produced after 9 January 2013;
- 7 years for a recommendation report accompanying a DEC produced before 9 January 2013.

¹⁵ **Public authorities** are central and local government, NHS trusts, schools (maintained and community), police, courts, prisons, Ministry of Defence, Army, executive agencies and statutory regulatory bodies. Institutions providing public services no longer need to display a DEC.

¹⁶ Check the wording of a relevant exemption before relying upon it.

¹⁷ A **stand-alone building** is one that is a building that is free standing (that is, entirely detached from any other building).

¹⁸ There is no obligation to commission an EPC just so that it can be displayed nor if an existing one ceases to be valid.

¹⁹ Note that in relation to Reg 6, there is a defence in Reg 37 where an EPC is unobtainable.