

## Energy Performance Certificates for holiday lets in England and Wales: Frequently Asked Questions (revised December 2011)

### 1. *Is an Energy Performance Certificate needed for holiday accommodation?*

In certain circumstances, yes – basically, an Energy Performance Certificate is required whenever a property is rented out (unless it is intended to be used for less than 4 months in a year), including when it is rented for use as holiday accommodation. A rental arrangement is one where a person pays the property owner for the exclusive use of the property.

### 2. *Under what circumstances is an EPC not required for a holiday let?*

An EPC is not required for a holiday let where:

- the property is rented out for less than 4 months in a year; or
- it is let under a licence to occupy – regardless of the amount of time it is occupied.

A licence to occupy is an arrangement where the holiday maker does not have exclusive use of the property, for example, where the property owner or their representative has the right to access the premises during the period of the booking.

### 3. *When will the amended guidance clarifying this requirement come into effect?*

Immediately.

### 4. *Has there been a change in the existing regulatory regime?*

The existing Energy Performance of Buildings Regulations<sup>1</sup> have been in force since 1 October 2008 and state that any building that is constructed, sold or rented must have an Energy Performance Certificate.

The Regulations do not specifically exclude short term holiday lets. We will be amending the Regulations in April 2012 to provide that an EPC is not required where a building is rented out for less than 4 months a year.

In anticipation of this deregulatory change, we are making clear now that an EPC is not required if the building is rented out for less than 4 months a year

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<sup>1</sup> The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 as amended (<http://www.legislation.gov.uk/uksi/2007/991/contents/made>)

5. *Where do the Energy Performance of Buildings Regulations come from?*

They flow from the European Union Energy Performance of Buildings Directive<sup>2</sup>.

6. *Where do they apply?*

The Regulations apply in England and Wales only. Scotland and Northern Ireland have their own arrangements.

7. *At what point is an Energy Performance Certificate required?*

On sale, rent or construction of a building. The owner or managing agent of the holiday let must obtain the Certificate at, or before the point, when a property is first rented out.

8. *What difference does it make if holiday makers do not have exclusive use of the property?*

Properties which are let under a licence to occupy do not require an Energy Performance Certificate. A licence to occupy is where a person is permitted to stay in a property or part of a property such as a room, and (usually) pays the property owner or their agent, but is not entitled to refuse entry to the property owner, agent, or someone working for them, during the period of the booking.

9. *How do you define a building?*

In relation to Energy Performance Certificates, a building is defined as a roofed construction having walls for which energy is used to condition the indoor environment. A building can include a part of a building where this is a self sustained unit such as an apartment.

10. *What about mobile homes, caravans and park homes?*

The Certificate is only required for a building or part of building which has walls, a roof and an energy conditioned interior. Mobile homes, caravans and park homes as defined by regulations<sup>3</sup> are exempt.

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<sup>2</sup> 2002/91/EC of the European Parliament and the Council of 16 12 02 on the Energy Performance of Buildings, O.J. No L1 04.01.2003 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:001:0065:0071:EN:PDF>)

<sup>3</sup> *Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006.*

11. *Does it apply to bed and breakfast accommodation as well? What about hotels?*

Energy Performance Certificates are not required when individual rooms are rented out. However, a Certificate would be needed if the whole building was put up for sale.

12. *What about holiday parks?*

This depends on the individual circumstances. If the holiday park is actually selling a holiday rather than letting a specific property, then this is not covered by the Energy Performance of Buildings Regulations.

13. *Are there any other exemptions?*

Yes. Places of worship, temporary buildings with a planned time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand and stand-alone buildings with a total useful floor area of less than 50m<sup>2</sup> (which are not dwellings) are all exempt.

14. *Are you proposing to introduce any other exemptions?*

Yes. We are planning to consult on the implementation of the Energy Performance of Buildings Directive Recast. As part of that we propose to amend the Regulations to exempt residential buildings which are used or intended to be used less than four months of the year. This will bring the Regulations into line with the current guidance.

15. *How should the four months be calculated?*

The total four months can consist of any combination of individual bookings; these may be for a period of days, weeks or months.

16. *Whose responsibility is it to ensure that a holiday let has an Energy Performance Certificate?*

The owner of the property is responsible.

17. *How much should it cost?*

The Certificate would normally cost in the range of £50-£75.

18. *How long does it last?*

The Certificate is currently valid for 10 years.

19. *How long does it take?*

It takes about an hour to complete the inspection.

20. *How long until I get the Certificate?*

It should take no more than a week.

21. *Is a holiday home counted as a residential or commercial property?*

It would depend on the individual circumstances but we would expect the majority of holiday homes to be residential properties, notwithstanding that they are run as commercial enterprises and business rates are payable. Both residential and commercial properties require Energy Performance Certificates.

22. *Will I need a domestic or non-domestic Energy Performance Certificate?*

You would need a domestic Certificate. This is because the domestic Certificate is more likely to fit the particular characteristics of a holiday home. Therefore the Certificate would have to use a model called Reduced data Standard Assessment Procedure and be lodged on the Domestic Energy Performance Certificate Register.

23. *Where would I go to find an energy assessor who can provide me with an Energy Performance Certificate?*

A list of local energy assessors is available on the Domestic Energy Performance Certificate register at <https://www.epcregister.com/searchAssessor.html>.

24. *What if there is a restriction on the use to which the property can be put, for example if the local authority says it cannot be used as a dwelling.*

It will still need an Energy Performance Certificate unless it is a stand-alone building with a total useful floor area of less than 50m<sup>2</sup>.

25. *If the property owner pays all of the utility bills, does the building still need an Energy Performance Certificate?*

Yes.

26. *Who is responsible for enforcement?*

Trading Standards Officers.

*27. What is the penalty for non-compliance with the requirement to provide an Energy Performance Certificate?*

Owners could have to pay a fine of £200 per dwelling or 12.5 per cent of business rates for commercial buildings.

*28. Why does the UK have to comply with European Directives?*

If the UK does not comply with European Directives then the European Union can start what are called infraction proceedings and these could lead to a fine being imposed on central or local government.

*29. How quickly are owners expected to hold an Energy Performance Certificate or have commissioned it?*

Enforcement is a matter for Trading Standards Officers to decide. However, the regulations allow owners a reasonable amount of time to comply.

*30. Is there any defence against non-compliance?*

Yes: being able to demonstrate that a Certificate has been commissioned within a reasonable time before letting the property.

*31. Will the requirement to get an EPC for holiday lets rented out for more than 4 months a year, or that are not let under a licence to occupy, be applied retrospectively?*

The requirement will not be applied retrospectively

*32. How and when should the Certificate be made available?*

The Energy Performance Certificate should be made available (in electronic or paper format) to a prospective tenant at the earliest opportunity; and in any event before entering into a contract to rent out the building.

*33. Can I start marketing a holiday let without an EPC?*

Currently, yes, but the Government intends to change the law with effect from 6 April 2012. From this date, an EPC must either be available or have been commissioned before a property can be marketed for sale or rent.

*34. Are there any other changes planned from April 2012?*

Yes: there will also be a requirement for the first page of the EPC to be attached to any written particulars produced for a property being sold or rented out.

35. *How are “written particulars” defined?*

For a rented property, written particulars are defined as a document (whether electronic or paper) that includes at least two of the following:

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