

LANDLORDS ARE YOU COMPLIANT WITH THE LAW?

ONE THING TO CHECK THIS MONTH: ENERGY PERFORMANCE CERTIFICATES

By Tessa Shepperson of Landlord Law

Much of the content of this magazine is about the business of investing and developing property to rent. However, sometimes people overlook the legal rules and regulations that landlords need to comply with.

Renting property to tenants is heavily regulated. Many of these regulations carry substantial penalties for non-compliance. Consequently, your earnings as an investor will be dependent not only on your savvy investment skills but also on legal compliance so you avoid fines and penalties.

Every month, we will be looking at one issue where failing to comply could cause you financial loss.

Today we are looking at:

Energy Performance Certificates

An energy performance certificate (generally referred to as an EPC) is one of the many documents that need to be provided to tenants. EPCs contain:

- information about a property's energy use and typical energy costs, and
- steps to improve a property's energy efficiency and save money

Landlords must have an EPC, which must be obtained from an accredited assessor, before marketing their property for rent. You can find out whether a property has a valid EPC from the government website page <https://www.gov.uk/find-energy-certificate>.

The relevant regulations are The Energy Performance of Buildings (England and Wales) Regulations 2012.

These state that a copy of your EPC must be provided free of charge to all prospective tenants (or contract holders in Wales). An EPC must be in place before you market the property, and you will not (unless your property falls within one of the exceptions)



be able to use one of the marketing portals such as Rightmove if an EPC is not available.

The reason behind this rule is that energy costs are a significant expense for tenants. An EPC will give them information about how much this will cost them before they rent the property so they can make an informed decision.

Exceptions

You don't need to provide an EPC in the following situations:

- If you are renting out a room rather than a 'building' (although it is a good idea to have an EPC for the building available if applicants ask for it)
- If you believe the applicant is unlikely to have sufficient funds to rent the property or is not genuinely interested in renting it, or
- If you are not going to rent to that applicant (note that this does not authorise unlawful discrimination), and
- Some holiday lets, plus
- Some buildings that are protected as part of a designated environment or because of their special architectural or historical merit are exempt. You will generally know if this applies to your building.

Penalties for non-compliance

The enforcing officers for the Energy Efficiency Regulations are local authority trading standards officers. If they find that a landlord is not complying with the

regulations, they can give a penalty charge notice, which carries a fine of £200. This will normally be after a complaint has been made to them and the landlord has failed to produce an EPC on request.

There is a defence if a tenant requires accommodation urgently and cannot wait for an EPC to be obtained, provided the landlord provides it to the tenant as soon as reasonably practicable after renting the property out.

Service of an EPC is also a condition of being able to serve a valid Section 21 notice, although the requirement will be satisfied if the notice is served late – so long as it is served before your Section 21. This, though, will be redundant after Section 21 has been abolished under the forthcoming Renters Rights Bill.

When an EPC expires

I am often asked if a new EPC needs to be obtained and served on tenants during the tenancy if the EPC served on them expires (EPCs currently have a 'life' of 10 years).

The answer is 'no'. The regulations only require an EPC to be served on tenants before they rent the property, not afterwards.

And finally...

There is a lot of dissatisfaction with EPCs, which are often unreliable and can vary widely.

There is also the fact that properties tend to be scored more on the cost of energy rather than the carbon footprint of the property. Which means that EPCs often recommend gas central heating over renewable energy solutions. This is absurd, as gas is likely to be banned in coming years because it is a fossil fuel – something we need to stop using if we are to meet our Net Zero commitments.

Expect significant changes to EPCs, therefore, in the coming years.

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Tessa's Landlord Law service contains tenancy agreements and other documents, a property audit kit, detailed checklists on renting out and managing property, a number of step-by-step guides (including an eviction guide), and a members forum where you can ask 'quick questions'. Find out more at landlordlaw.co.uk/membership