



# ENERGY

# PERFORMANCE

# CERTIFICATES

# AND CHURCHES

## Introduction

This note is a generic introduction into the circumstances in which church owned buildings may need an Energy Performance Certificate (EPC). This document should not be relied on to the exclusion of bespoke legal advice.

The [Energy Performance of Buildings \(England and Wales\) Regulations 2012](#) (as amended) (the *2012 Regulations*) govern whether and in what circumstances a building must have an Energy Performance Certificate.

These regulations should be read in conjunction with other legislation (including the [Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#) (the *2015 Regulations*) and [The Energy Act 2011](#) (The Act)), and guidance, including the Department for Business, Energy and Industrial Strategy's [Guidance for Landlords](#).

An EPC is awarded after a building is professionally assessed for its energy efficiency. A property is given a grade, running from A – G, with A being the most energy efficient, and G being least. EPCs are valid for 10 years, although it is advisable to obtain a new EPC upon completing works which may impact your properties rating.

When making property available for rent (or indeed for sale), the general principle is that the owner must have an EPC at a specified grade (*2012 Regulations 6(2)*).

In some circumstances, the general principle does not apply, either because:

- a building does not fall under the remit of the regulations; or
- even though a building does fall under the remit of the regulations, it also falls under the remit of an exemption.

Parochial Church Councils (PCCs) or other bodies charged with renting out Church-owned property may be concerned about what duties they have in respect of EPCs when deciding to allow individuals or organisations to hire their space, be that space part of a church, a church hall or other PCC-owned property.

The questions that a PCC needs to ask itself are:

- Do I need an EPC in order to rent out this building?, and if so,
- At what grade should that EPC be?

# Do I need an EPC to rent out this building?

## Categorise your building

The Legislation divides property into two main categories. When considering whether you need an EPC, you should first identify which, if either, category your property fits into.

The first category is Domestic Private Rented Property. Property falls into this category if it is let under a tenancy as defined in section 42 the Act (*The Act*, Section 42(1)a).<sup>1</sup>

The second category is Non-Domestic Private Rented Property. Property falls into this category if it is situated in England and Wales, and is let under a tenancy, and is not a 'dwelling' (as defined, *The Act*, Section 42(1)b).

It should be noted that both categories exclude properties occupied under arrangements other than a tenancy. If, for example, your property is occupied under licence, it will not fall within the remit of the Regulations, and you will not need to obtain an EPC.

Some domestic and non-domestic property types fall outside the remit of the Regulations. These include:

- Buildings used as places of worship and for religious activities (*2012 Regulations* 5(1)b).
- Buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance. (i.e. those that are listed, or within some conservation areas, *2012 Regulations* 5(1)a).
- Buildings that are temporary structures with a term of use of less than two years (*2012 Regulations* 5c).
- Buildings that are standalone buildings of less than 50m<sup>2</sup> (*2012 Regulations* 5g).
- Non-domestic Private Rented property that is let on a tenancy for a term certain of 99 years or more (*2015 Regulations* 20(3)b).
- Non-domestic Private Rented property that is let on short term lease not exceeding 6 months (unless the tenancy agreement includes provision for renewing the term or for extending it beyond six months from its beginning, or at the time the tenancy is granted, the tenant has been in occupation for a continuous period which exceeds 6 months (*2015 Regulations* 20(3)a).

If your property falls within the definition of Domestic Private or Non-domestic Private Rented Property, and is not expressly brought outside the remit of the Regulations, then the starting point should be that you will need an EPC of the relevant grade, unless exempt.

## Church buildings

As noted, the Regulations do not apply to buildings used as places of worship and for religious activities.

The Regulations make no distinction between consecrated and unconsecrated buildings. This is because this distinction does not hold weight in the context of EPCs. All that matters is that your church building is a place of worship, that is "a place of which the principal use is as a place where people come together as a congregation or assembly to do reverence to God." (Lord Denning, in *R v. Registrar General, ex p. Segerdal* [1970] 2 QB 697)

Almost all Church of England church buildings that remain in use by the church will fall into this categorisation.

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<sup>1</sup> Please note that if property is low-cost rental accommodation, and the landlord is a private registered provider of social housing, or it is low-cost home ownership accommodation, or the landlord is a body registered as a social landlord, then a property is not domestic private rented property (cf. *The Act*, Section 42(2)).

Some communities, generally those meeting under the authority of a Bishop's Mission Order (BMO), may have as their place of meeting a building that is not a traditional church building (for example, in a cinema or lecture theatre). For most such communities, this will not pose an issue as they are a tenant (so they have a right to an EPC from their landlord) rather than a landlord (in which case they might have a duty to provide an EPC to their tenant).

The observation about BMOs meeting, for example, in a cinema or lecture theatre implies a duality of purpose. If you are an owner of such a building, which is used for two or more purposes, it is recommended that you seek specific advice about this from your Registrar. It is likely that if the building that you own has a primary purpose that is not worship of God (even if that is one, lesser, part of its purpose) then you will need an EPC to rent out the building.

PCCs should also, of course, have regard to the ecclesiastical law, governing the leasing of buildings on consecrated ground, in particular, the Mission and Pastoral Measure 2011, section 68.

## Other church property

Other property that a PCC may want to let out might be domestic (for example, a curate's house) or non-domestic (for example a church hall). If such a property and the rental arrangements under which it is proposed to rent it out falls within the remit of the Regulations, then an EPC will be required, unless the building is exempt.

As pointed out at above, buildings used as places of worship and for religious activities do not come under the remit of the Regulations. It is very unlikely that church halls or other Church-owned property (save for church buildings themselves) will benefit from this exclusion. If you are unsure whether or not you need an EPC, you would be well advised to exercise caution and seeking specific, independent legal advice.

## Exemptions

There are several exemptions which apply to both domestic and non-domestic. They are set out in relation to domestic property in [Domestic private rented property: minimum energy efficiency standard - landlord guidance](#). and in relation to non-domestic property, in [Non-domestic private rented property: minimum energy efficiency standard - landlord guidance](#).

They are as follows:

### Applicable to Domestic Private Rented Property only:

- Where you have made all relevant improvements (to the value of £3,500 (inc.VAT)) and the property is still not at the required EPC grade.
- Where there is no improvement that can be made because the cost of installing even the cheapest recommended measure would exceed £3,500 (inc.VAT).

### Applicable to Non-domestic Private Rented Property only:

- Where a recommended measure is not a 'relevant energy efficiency improvement' because the cost of purchasing and installing it does not meet the 7-year payback test (this test is set out in the *2015 Regulations 28(3)*).
- Where relevant energy efficiency improvements for the property have been made (or there are none that can be made) and the property remains sub-standard (*2015 Regulations 29*);

### Applicable to both Domestic and Non-Domestic Private Rented Property:

- If the only relevant improvements for your property are either cavity wall insulation, external wall insulation or internal wall insulation, and you have obtained written expert advice showing that these measures would negatively impact the fabric or structure of the property.
- If the relevant improvements for your property need consent from another party, such as a tenant, superior landlord, mortgagee, freeholder or planning department, and despite your best efforts that consent cannot be obtained, or is given subject to conditions you could not reasonably comply with.
- If you have evidence showing that making energy efficiency improvements to your property would devalue it by more than 5%. In order to register this exemption you will need a report from an independent surveyor.

- If you have recently become a landlord under certain circumstances (see section 4.1.6 in Chapter 4 of the full guidance document for details of those circumstances in respect of domestic property, and see section 3.1.3 in Chapter 3 of the full non-domestic guidance for landlords document for details of those circumstances in respect of non-domestic property) you will not be expected to take immediate action to improve your property to EPC E. You may claim a 6-month exemption from the date you became a landlord.

### **What grade of EPC do I need?**

- Domestic and Non-Domestic Private Rented Property requires an EPC grade of E or above. The Grade of EPC that you require depends on the category of property you are renting out.
- This applies to new and existing tenancies.
- Please note that this guidance is correct at July 2023, but this area is subject to ongoing consultation and possible revision by HM Government. In future, properties that currently require a Grade E EPC will probably require a higher grade.

### **How do I proceed if I am exempt?**

There are properties that are not within the scope of the Regulations. These are not exempt from the Regulations – the Regulations simply never applied to them in the first place. This includes, for example, places of worship, or short leases.

There are other properties that although within the scope of the regulations, are exempt from them.

Those buildings or rental arrangements that fall within the scope of the Regulations, but which are exempt from them, must be registered on the National PRS Register. Such exemptions are usually time-limited for 5 years.

### **What happens if I don't have an EPC?**

If a PCC does not have the required EPC for a property they are the landlord of, they may be fined (based on the rateable value of the property, rising in some circumstances to £150,000) and placed on a public register.

### **How do I get an EPC?**

EPCs are given after a process of assessment. The government maintains a list of accredited assessors.<sup>12</sup> It may be that your diocese also has a list of [accredited assessors](#) they use regularly. Your chosen assessor should be qualified to assess the particular type of property you require assessing.

