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Rating (Empty Properties) Act 2007

The Government has introduced a new Act to increase empty commercial property rates.

Currently, certain commercial properties, which are empty, benefit from an initial rate free period and then are charged 50% of the relevant local authority business rate.

The new Act, which was passed on 19 July 2007, will increase the discounted rate of 50% to 100% from 1 April 2008.

The changes will affect any owner/occupier of any type of commercial/business premises.

Industrial buildings, although disadvantaged by the increase, will however benefit slightly by an extended exempt period.

At the moment the exempt period is 3 months for industrial buildings but this will increase to

6 months.

The sting in the tail comes after the 6 month exempt period when the relevant business rates will be levied at 100%.

Who will benefit?

Not many owners will benefit at all - in fact many will be disadvantaged by this change.

However, charities and community amateur sports clubs ("CASC") will greatly benefit.

After 1 April 2008 any charity or CASC will no longer be required to pay any business rates in respect of empty property provided that, when the property is reoccupied, it is used for the purpose of the charity's 'aims' or by a CASC and the CASC remains registered as such as club.

Energy Performance Certificates - Don't be left out in the Cold

Most people are probably already aware that the introduction of Energy Performance Certificates ("EPCs") came with the advent of Home Information Packs for residential properties.

Less well known is the impact of EPCs on commercial properties.

Commercial property owners or occupiers must comply with the new Building Regulations or risk fines of between £500 and £5,000 per offence.

What is an EPC?

The EPC is a certificate containing certain information about the energy efficiency of a building.

This will include an asset rating highlighting the energy performance of a building's fabric and services expressed on a scale of A-G, (much like that seen on fridges or similar domestic appliances).

An EPC is valid for a period of 10 years from the date of issue.

When is an EPC needed and who is responsible?

When a building is being constructed or sold or let, the developer, seller or landlord must provide a valid EPC and a recommendation

report, free of charge.

Construction

The builder or developer is responsible for obtaining and providing the EPC to the owner of the building.

This must be done on completion of the construction.

Sale

When a building is being sold, the owner must ensure that an EPC and recommendation report is made available to the prospective purchaser at the earliest opportunity

Rental

The Landlord must make available the EPC and recommendation report to the prospective tenant at the earliest opportunity.

In all cases, no later than:

- when any written information about the building is provided in response to a request for information received from the prospective buyer; or
- when a viewing is conducted; or
- if neither of those occur, before entering into a contract to sell or let.

An energy performance certificate does not

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have to be made available if:

- the seller believes that the prospective buyer or tenant is unlikely to have sufficient funds to purchase or rent the property or is not genuinely interested in buying or renting that type of property; or
- the seller or landlord is unlikely to be prepared to sell or rent out the property to the prospective buyer or tenant (although this does not authorize unlawful discrimination)

Some buildings are exempt e.g. places of worship, temporary buildings, certain types of building with low energy demand, some small properties and buildings about to be demolished.

Key Dates for EPCs

6 April 2008	EPCs required for the construction, sale or rent of buildings (other than dwellings) with a floor area over 10,000 m ² .
1 July 2008	EPCs required for the construction, sale or rent of buildings (other than dwellings) with a floor area over 2,500 m ² .
1 October 2008	EPCs required on the construction, sale or rent of all remaining buildings (other than dwellings). Display certificates required for all public buildings >1,000 m ² .
4 January 2009	First inspection of all existing air-conditioning systems over 250 kW must have occurred by this date*.
4 January 2011	First inspection of all remaining air-conditioning systems over 12 kW must have occurred by this date*.

****Note** - a system first put into service on or after 1 January 2008 must have a first inspection within 5 years of it first being put into service.

Contacts

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The information contained in this note is correct to the best of our knowledge at the time of publication. It is intended as a general guide only and should not be taken as specific advice.