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### **The Energy Performance of Buildings (England and Wales) Regulations 2012**

The above new Regulations came into force on the 9<sup>th</sup> January 2013, below is a summary of the main requirements and amendments/clarifications.

It is now clarified that holiday lettings do not require an EPC unless the let is by means of a tenancy agreement. Most holiday lets create a 'licence to occupy' which means that the persons occupying cannot by definition be tenants and thus are not entitled to receive an EPC.

- The list of properties to which the Regs do not apply has been extended (Reg 5) and the demolition criteria altered (Reg 8). Note that Reg 5(2) appears to remove the need to provide an EPC for off-plan and part completed sales but there is a requirement in Reg 29 of the Building Regs 2010 to provide an EPC within 5 days of completion.
- Reg 6 requires that the relevant person shall make available free of charge an EPC no later than the point of provision of written information or the viewing whichever is earlier; this can be electronic (Reg13).
- Reg 7(2) requires that the relevant person (the seller or prospective landlord) must secure that an EPC has been commissioned before marketing.
- Reg 7(3) requires that estate and lettings agents must be satisfied an EPC has been commissioned before marketing building.
- Reg 7(4) requires that estate and lettings agents must use all reasonable efforts to obtain an EPC within 7 days of placing on market.
- Reg 7(5) places a 21 day deadline for obtaining and making available an EPC
- Reg 9 appears to change some of the criteria around how the EPC itself can be completed and clarifies the position where there are a number of units within a larger building all with a common heating system (there is a new definition of 'building unit').
- Reg 10 creates a new duty to display an EPC, subject to one being made available in accordance with Reg 6 so I assume that this qualification can only be met for events occurring after the 9 January 2013. Note that this is a different requirement to Display Energy Certificate and is a different document; not sure quite how a multi-page EPC can be displayed. The duty applies to buildings above 500m<sup>2</sup> useful floor area and frequently visited by the public.
- Reg 11 There is no longer a requirement to include any information other than the Asset Rating in property advertisements and the Asset Rating in the advertisement can simply be the numerical indicator (A-G).

**In short estate/lettings agents must:**

- Include the asset rating in advisements for the sale or rent in commercial media.
- Possess the EPC no later than 21 days after commencing marketing.
- Ensure EPC is commissioned before marketing.

**The relevant person (the seller or prospective landlord) must:**

- Make available an EPC free of charge with the written information or at point of viewing.
- There is no corresponding duty on the agent so if the EPC is not provided it is the vendor/prospective landlord who has breached the duty not the agent.

**As you are no doubt aware only a court can make authoritative decisions in any case and this leaflet has been issued purely as a guide to traders.**

**January 2013**