

LANDLORDS: LEGAL UPDATE – ENGLAND & WALES

Landlords need to be aware of legal developments in the following three areas : -

1. Energy Performance Certificates.
2. Empty property rates.
3. Leasing business premises

Energy Performance Certificates (EPCs)

Since April 6, 2008 EPCs are required for all newly constructed commercial premises over 10 000 square metres (107 693 square feet). By October 2008 EPCs will be required when selling or letting ALL commercial properties, regardless of floor area

There is not a set price for EPCs and the market itself will determine the cost. Especially in multi-tenanted properties such as office blocks in which there may be tenants who sub-let their premises landlords would need to consider who is responsible for the costs of obtaining EPCs. We suggest that this is clearly provided for in the drafting of agreements to prevent any dispute.

Empty property rates – England and Wales

New legislation has been in force since 1 April, 2008 which in effect reduces the exemption from empty property rates.

Before the new legislation came into force most empty business premises received 100% relief for the first three months of vacancy and 50% thereafter. Vacant industrial and listed buildings received 100% relief during all periods indefinitely.

Now, vacant industrial premises ONLY attract a relief of 100% for six months after which full property rates will be payable. Non-industrial premises now only receive 100% relief for the first three months of unoccupancy, after which full property rates will be payable.

There is some good news. Charities and community amateur sports clubs now receive 100% relief as do small companies occupying premises with a rateable value below £2 200. Also property owned by a business in administration but not occupied by that business are exempt from paying empty property rates.

Leasing business premises

The revised Code for Leasing Business Premises is voluntary but has been widely endorsed by various bodies including the Royal Institute of Chartered Surveyors. Landlords are encouraged to follow its provisions.

The Code covers ten topics, some of which landlords may not be too enthusiastic about. For example the Code proposes that an authorised guarantee agreement should be required on the assignment only when the proposed assignee, when assessed together with any guarantor, is of lower financial standing than the existing tenant .

Other topics include rent reviews, assignment and subletting, rent deposits and guarantees, service charges, and alterations and change of use. The Code seeks to ensure transparency in dealings by proposing that landlords state whether alternative lease terms are available and giving details of the rents attributable to each.

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