

## Commercial Property - Portugal

### New energy performance certification system for buildings introduced

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#### Introduction

The new certification system for the energy performance of buildings, approved by Decree-Law 118/2013,<sup>(1)</sup> entered into force on December 1 2013.

The new certification system, which transposed EU Directive 2010/31/EC, establishes a clear distinction between the regimes applicable to residential and non-residential buildings (eg, services and commercial buildings), with a view to simplifying and clarifying an issue of significant technical complexity.

#### Certification

Building owners must now obtain an energy performance certificate (EPC) where required under the new certification system. The EPC is a document with a specific number, issued by a certified building energy assessor, which contains a report and rating of the building's energy performance (including recommendations, where applicable).

For buildings under construction or major renovation, a provisional EPC is required before the construction or renovation takes place. However, this provisional EPC will expire if it is not converted into a final EPC once the work has been completed.

EPCs (and provisional EPCs) are valid for 10 years from the date of issue. EPCs for major services and commercial buildings are valid for six years from the date of issue. However, if there is any change in the building that could affect its energy performance, the EPC will be rendered invalid.

Apart from the owners, developers and real estate agents must now disclose the relevant EPC (or provisional EPC) number and energy performance rating in all advertisements for the sale or rent of buildings covered by the certification system.

#### Applicable buildings

The new certification system applies to the following buildings (or units):

- new buildings and existing buildings which undergo major renovation works;
- existing services and commercial buildings that:
  - have a total area of 1,000 square metres or more, or 500 square metres in the case of shopping centres, supermarkets or covered pools; or
  - are owned by a public authority and have a total area of over 500 square metres that is occupied by a public authority and frequently visited by the public. On July 1 2015 this threshold will be lowered to 250 square metres; and
- all existing buildings sold, transferred in lieu of payment or leased to a new tenant from December 1 2013, with the exception of:
  - sales or transfers in lieu of payment to a co-owner or a tenant, during enforcement proceedings, to an expropriating authority or for total demolition as confirmed by the relevant licensing entity;
  - leases of the landlord's normal place of residence for less than four months; and
  - leases to former tenants of the building.

## Exempt buildings

The certification system does not apply to the following buildings (or units):

- industrial, agricultural and animal husbandry sites;
- buildings designed to be used exclusively as warehouses, parking places, workshops and for other similar purposes;
- standalone buildings with a floor area of less than 50 square metres; and
- vacant commercial and services buildings (until they are offered for sale or rent).

## Supervision

A building's EPC must be shown in the following circumstances:

- during the licensing proceedings before the relevant authority;
- in the execution of the sale and purchase agreement or lease agreement before a notary or lawyer; and
- within the control and supervision of economic activities before the relevant supervising authority. These authorities are responsible for informing the Energy Agency of all instances in which an EPC has not been provided, as well for as identifying the building and its previous and current owner.

Failure by the owner to obtain an EPC or provisional EPC is a misdemeanour subject to a fine ranging from €250 to €44,890. The same fine applies to owners, developers and real estate agents that fail to identify the building's EPC (or provisional EPC) number and energy performance rating.

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## Endnotes

(1) As rectified by Rectification Statement 41/2013 (October 17 2013).

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