

## EPCs for Listed Buildings

PEPA wishes to clarify the position on listed properties and the need, or otherwise, for them to hold an EPC under the Energy Performance of Building Regulations.

It can sometimes be a little unclear for the energy assessor trying to do the right thing and follow both the regulations relating to EPBR and government guidance, whilst at the same time advising the owner of the property.

In the view of PEPA and its members, there is no express exemption in the Energy Performance of Buildings Regulations for listed buildings, and the regulations dealing with this point are not at all 'black and white'. We therefore feel that in most circumstances an EPC should be obtained to meet the legal obligations that apply when properties are placed on the market for sale or rent, and whilst energy assessors may give verbal advice, the judgement on the requirement to obtain an EPC will ultimately be the responsibility of the property owner.



### What is a listed building?

The legal definition of a listed building is contained within section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as "a building which is included in a list compiled or approved by the Secretary of State". Historic England has published numerous guides concerning the different classes of historical buildings and their determining criteria on its website.

Historic England states in its guidance that:

*Listing is not a preservation order, preventing change. It does not freeze a building in time, it simply means that listed building consent must be applied for in order to make any changes to that building which might affect its special interest."*

*From this explanation it is clear that alterations to listed buildings are envisaged. It is simply that listed building consent must first be obtained to any proposed changes. Indeed, why are energy efficiency measures dealt with differently from any other proposed change to the building?*

*What does the Energy Performance of Buildings (England and Wales) Regulations 2012 require?*

*The Regulations only state that a listed building is exempt from providing an EPC "insofar as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance".*

## Duties relating to Energy Performance Certificates

Application of Part 2

5.—(1) This Part does not apply to—

(a) 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;"

With the advent of the minimum energy efficiency standards (MEES), EPCs provided for sale or letting have to meet a minimum of grade E. There is however an exemption process from this legislation and this could apply where the implementation of recommendations could adversely affect the property.

## What does Government say?

Guidance (which is not Regulations, but an interpretation of such) on both the Government and Historic England websites on the EPC requirements, indicates that listed buildings are exempt from the EPC requirements, although the Government website does temper this by saying that, "advice should be sought from the relevant local authority conservation officer if the work would alter the building's character".

## Domestic Homes – Government Guidance

Buildings that do not need an EPC include:

- places of worship
- temporary buildings that will be used for less than 2 years
- stand-alone buildings with total useful floor space of less than 50 square metres
- industrial sites, workshops and non-residential agricultural buildings that do not use a lot of energy
- some buildings that are due to be demolished
- holiday accommodation that is rented out for less than 4 months a year or is let under a licence to occupy
- listed buildings - you should get advice from your local authority conservation officer if the work would alter the building's character
- residential buildings intended to be used less than 4 months a year

and similarly for commercial properties:

### Business Premises – Government Guidance

Exemptions you don't need an Energy Performance Certificate (EPC) if you can demonstrate that the building is any of these:

- listed or officially protected and the minimum energy performance requirements would unacceptably alter it
- a temporary building only going to be used for 2 years or less
- used as a place of worship or for other religious activities
- an industrial site, workshop or non-residential agricultural building that does not use much energy
- a detached building with a total floor space under 50 square metres
- due to be demolished by the seller or landlord and they have all the relevant planning and conservation consent.

N.B. The Scottish Government state in a guidance document that places of worship' and historic buildings are not subject to an exemption, thus requiring an EPC to be produced at the appropriate trigger point.

### Conclusions

This appears to be a classic 'catch 22' situation in that to adhere to the regulations one would have to undertake the energy assessment and produce the EPC, in order to then substantiate to an appropriate authority that the energy efficiency measures would "unacceptably alter the buildings character". To then prove that the building was exempt from the EPC in the first place. PEPA argues that this was never the intention of the Regulations. It would, in our opinion, be much clearer and easier for all to understand to require EPCs for all Listed Buildings.

The measures that the EPC indicates are simply cost effective measures that 'could' be applied to any building irrelevant of the status of the said building. After all they are measures that make the building more comfortable and save the occupants/landlords money from fuel bills.

EPCs do not state that home owners /tenants/or landlords MUST undertake the improvements suggested, they are just guidance. It is also clear that appropriate bodies should be sought when considering each recommendation and we see that Local Authorities can deal with this for Listed Buildings.

This in our opinion is no different from boilers and window replacement which require Building Regulations to be followed in all instances. We all agree that in the majority of listed building's external solid wall insulation is probably inappropriate, but the vast majority of recommendations such as heating systems, heating controls, loft insulation, cylinder insulation and low energy lighting could be completely appropriate.

We think that all parties involved in interpreting the current regulations are vulnerable. The current assumed stance of exemption from EPCs is ambiguous and leaves any party involved in sales and rental of listed buildings open to challenges by the appropriate authorities or more significantly with PRS legislation purchasers or tenants. Overlaid with MEES regulations this is getting to be a complicated area of law.

### What is PEPA's advice?

Keeping it simple allows the process to work as was first understood, energy assess all buildings, giving tenants and building owners and landlords information on the energy efficiency of their building, and let the appropriate authorities with existing regulations deal with what is the appropriate energy efficiency measures for the building . If the building is 'F or G' rated and 'Listed' then use the 'exemption register' as detailed in the published Guidance from BEIS.

Going forward PEPA would like to see the EPC generated on a listed building to have some text describing its listing, and stating that professional guidance should be sought before embarking on any of the measures indicated. We believe due to the fact that each listed building may be dealt with differently by individual local authorities, energy assessors should not be allowed to 'switch' off recommendations that they (or the owner/landlord) feel are inappropriate as this is not consistent and fair, but that the correct professional at the Local Authority makes the informed decisions.

In our opinion this is what was always intended, the EPC is a guidance document and people can use it as they see fit. MHCLG have offered their opinion and we believe their guidance is clear, they accept that it is ultimately the building owner who is responsible for soliciting an EPC.