

Property & development

New energy efficiency mandatory disclosure obligations for commercial office buildings

The Commonwealth Government is proposing a scheme for the mandatory disclosure of energy efficiency information for commercial office buildings (Scheme).

The Scheme is expected to commence in the second half of 2010. The nature of the disclosure obligations means those parties affected need to start getting ready now, to be able to comply by the time the Scheme commences.

We see the Scheme as broad reaching in its effect, impacting not only on building vendors, landlords, purchasers and tenants directly, but also on financiers and insolvency practitioners indirectly.

Will the Scheme affect you?

The Scheme will apply:

- to the sale, lease or sub-lease of office space;
- with net lettable area of at least 2000m²; and
- if you are a corporation.

What will you need to disclose?

Key building energy efficiency information to be disclosed is:

- a current accredited energy efficiency rating (National Australian Built Environment Rating System [NABERS] energy star rating); and
- a current Building Energy Efficiency Certificate (BEEC).

When must you disclose it?

The NABERS energy star rating must be disclosed at the time of offering the office space for sale, lease or sublease. This means the NABERS energy star rating must be included in any advertising campaign or promotional material.

The BEEC must be provided to prospective purchasers, lessees or sublessees as soon as possible and at no cost to them.

The NABERS energy star rating and the BEEC will also be administered on an online central registry, which will be searchable.

Who must disclose?

- For sales and leases, building owners must disclose the information.
- For subleases, lessees must disclose the information.

How quickly can I get the NABERS energy star rating and BEEC certificate?

The NABERS energy star rating and the BEEC are based on a building's actual energy consumption and performance data. This means a building's energy data needs to be collated for the NABERS energy star rating and BEEC to be obtained.

Only accredited assessors will be able to provide you with a NABERS energy star rating and BEEC. Also, the Department of Environment and Climate Change NSW (DECC) must certify the rating application before the rating is issued. So collating energy data, engaging an accredited assessor and obtaining certification is all part of the process. This means you must allow sufficient time to comply.

Why do I need to do this?

The Scheme is intended to increase the amount of credible information publicly available about a building's energy efficiency. Over time, we see this increased level of information as leading to comparisons of building energy efficiency by owners and prospective purchasers, lessees and sublessees, potentially significantly influencing the acquisition, disposition and leasing strategies of key players in the property market.

What if I don't comply?

Penalties and public disclosure of non-complying corporations are proposed to encourage compliance with the Scheme.

What should I do now?

Draft legislation for the Scheme is yet to be released, so the comments set out above are based on industry consultation documents currently in circulation. Once draft legislation is released, we will update you on the draft legislation and any variances to the above key information.

To help you understand the Scheme and what it may mean for you, we will then be hosting in-house seminars to provide an overview of the Scheme from the perspective of vendors, landlords, purchasers and tenants, and to provide a number of tips to help with compliance. We will inform you of the seminar dates closer to their time. In the meantime, you may register your interest in attending a seminar by emailing any of the contacts listed below.

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Land tax: Notifications of errors and omissions

The *Land Tax Act* has been amended effective 1 January 2010 and it is now obligatory for taxpayers to notify the SRO if there are errors or omissions in their land tax assessment notice.

A land tax assessment should list all of the land owned, including interests in any land jointly owned, as well as exemptions that apply.

Taxpayers are now required to notify the SRO within 60 days from the date of assessment if:

- they own additional land that has not been included in the assessment; or
- they receive two or more assessments for different lands that are owned by the same individuals or entities; or
- they receive an exemption for which they are not eligible.

How to notify SRO

Taxpayers must complete the Land Tax Amendment Form (LTX Form 11). The form will ordinarily be included with the assessment notice, or can be downloaded from the SRO web site, or taxpayers can contact the SRO on 13 21 61.

What happens if you do not notify the SRO

If you do not notify the SRO of incorrect details then taxpayers may be liable to pay penalty tax. Generally, penalty tax is an additional charge ranging from 25 to 75 per cent of the amount that would have been assessed had the taxpayer notified the SRO of the error or omission in the assessment.

Contacts

For further information, or assistance with any land tax related issues, please contact:

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Further information

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