



# ” Mandatory energy performance certificate – who will be affected by the new obligation?

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With the prevailing energy crisis, as well as rising inflation, from spring 2023 it will be mandatory for owners of single-family houses and flats to pay for an energy performance certificate. In what circumstances and who will be required to have such a document? What will be the penalties for not having it?

## **WHAT IS AN ENERGY PERFORMANCE CERTIFICATE (ENERGY CERTIFICATE)?**

Since January 1, 2009, EU Directive 2002/91/EC has made energy certification mandatory in Poland, which means that every building (with certain exceptions) is required to have an energy performance certificate. An energy performance certificate, also called an energy passport or certificate, is not something new in Polish legislation. In a nutshell, it is a document that defines the energy standard of a given building. It contains a set of data and energy demand indicators for a building or a part of it.

The energy efficiency of a building should be understood as a degree, to which the building is prepared to meet the intended needs of its users while consuming the lowest possible energy. An energy efficiency assessment is an evaluation of a set of characteristics of a building that affect the energy consumption by that building required for its use, including, among other, an assessment of the thermal insulation of the building envelope and the efficiency of the installations and equipment used in the building.

Based on the information contained in the energy certificate, we can find out how much energy a building consumes and what we need to do to reduce the maintenance costs. At a time of rising electricity costs, as well as heating costs, this information is very useful for owners of single-family houses and flats.

Currently, an energy certificate is required for buildings built after 2009. It is also required when the building is sold or rented. In addition, it is also required in case of many subsidy programmes for the thermal modernisation of existing buildings, e.g. for the replacement of a heating source (installation of a heat pump).

The document is valid for 10 years from the date of issue. However, it may become invalid before this period expires if, as a result of conversion or renovation, the energy performance of the certified building changes.

## **TO WHOM THE CHANGES WILL APPLY?**

According to the amendment to the Act on Energy Performance of Buildings signed by President Andrzej Duda on 7 October 2022, the an energy certificate will also be obligatory for properties built before 2009.

Due to legal changes, from the end of April 2023, the energy certificate will be an indispensable attachment to the sale agreement of a building or premise, the sale agreement of a cooperative ownership right to premises, as well as when signing a rent agreement. This obligation relates also to buildings built before 2009.

According to information from the Ministry of Development and Technology, if we, as owners of premises in a multi-family building, want to sell or rent a flat located in a building with no energy certificate, we will compulsorily have to draw up an energy performance certificate for the part of the building concerned, i.e. for this flat, at our own expense. In addition, the legislator imposes an obligation on owners of rental properties to provide the annual energy demand indicators already in the advertisements. It should be empha-



sised that it will not be necessary to carry out an energy certificate, if you live in the house or flat and do not want to sell or rent it out.

The energy certificate will also be necessary for the construction of a house, as the acceptance of the building will not be possible without it. A copy of the certificate will have to be attached to the notification of completion of construction or the application for a use permit. All these changes result from the adaptation of the Polish law to EU law.

### **WHAT ARE THE PENALTIES FOR NOT HAVING AN ENERGY PERFORMANCE CERTIFICATE?**

Penalties for not having such a document will only be imposed on owners if they dispose of the property or rent it out. Until now, the penalty for not having an energy performance certificate was up to PLN 10 000. The new regulations do not specify the amount of the fine. Possible penalties are to be imposed by the notary at the time of the notarial action. It is expected that they may range from PLN several hundred to several thousand, depending on the type of property. A penalty may also be imposed on the person producing the energy certificate for providing information contrary to the requirements of the Act.

### **HOW MUCH DOES AN ENERGY CERTIFICATE COST?**

It is necessary to pay for carrying out an energy audit and preparing a certificate. Prices depend on many factors, mainly on the size and purpose of the building, the location, the availability of technical documents, the technical solutions used or the complexity of the building shell. This is why most service providers offer the price of the service individually. On the Internet, one can find offers where the cost of making a certificate for a dwelling starts from PLN 200 and for a single-family house from PLN 250.

### **WHO CAN CARRY OUT AN ENERGY CERTIFICATE?**

According to current legislation, the author of an energy performance certificate can only be a person who has been entered in the register of the persons authorised to draw up energy performance certificates. The list of companies authorised to issue an energy performance certificate can be checked in the central register of the energy performance of buildings on the Ministry of Development and Technology website.

The selected service provider may have a lot of questions about the building, such as how it was constructed, and how individual components or installations were installed. It is also the responsibility of the person drawing up the energy certificate to check all the elements that affect the energy requirements, i.e. heating, types and distribution of installations, or even the type of window frames and positioning of the building. It is therefore worth keeping documents confirming the thermal insulation performance of individual building elements.



## OTHER CHANGES RELATED TO THE AMENDMENT OF THE ACT

Each energy certificate is generated through the website of the Ministry of Development and Technology in the Central Register of Energy Performance of Buildings. The amended law introduces public access to basic information from the energy performance certificates collected in this register. Similar to the Central Register of Building Emissions, in which owners have to declare what is the main source of heating in their building, the Central Register of Energy Performance of Buildings is intended to improve knowledge of the energy situation of households in Poland.



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