

Energy Performance Certificate for commercial buildings

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On 13 January 2020, the Minister of Mineral Resources and Energy published a draft Regulation for the **Mandatory Display and Submission of Energy Performance Certificates** for Buildings (hereinafter referred to as, Regulation) under section 19(1)(1) of the National Energy Act No 34 of 1998 (National Energy Act).

The Regulation was subsequently gazetted on 25 November 2022 and requires all registered owners of non-residential buildings to publicly display an "energy performance certificate" at the entrance of all buildings by no later than 7 December 2025 (Deadline Date).

An [energy performance certificate](#) (Energy Certificate) must be issued by an accredited body (being the body accredited by the South African National Accreditation System, a member of the recognition arrangements of the International Laboratory Accreditation Cooperation or the International Accreditation Forum) indicating the energy performance of that particular building.

This certificate is issued in accordance with the South Africa National Standard SANS 1544: 2014 published by the South Africa Bureau of Standard in terms of the Standards Act No 8 of 2008.

For purposes of interpretation, the term "energy performance" has been defined in the Regulation as including the net energy consumed in kilowatt hours per square meter per year to meet the different needs associated with the use of a particular building.

These uses may include heating, hot water heating, cooling, ventilation and lighting but specifically excludes measured or assessed energy consumed by garages, car parks and storage areas as well as energy consumed by outdoor services.

In instances where land is owned, operated or occupied by a person or an entity which does not constitute an organ of state, such property owner, operator or occupier has until the Deadline Date to publicly display an Energy Certificate at the entrance of any building constructed on such land.

Section 3(2) of the Regulation requires an Energy Certificate to be displayed if the building in question -

- has a dominant occupancy classification in terms of Regulation A20 of the National Building Regulations under the National Building Regulations and Building Standards Act No 103 of 1977, published by the Minister of Trade and Industry (National Building Regulations) as "A1" (entertainment and public assembly), "A2" (theatrical and indoor sport), "A3" (places of instruction), or "G1" (offices); and
- is in operation to meet a particular need associated with the use of the building for a period of two years or longer, and has not been subject to a major renovation (being any changes to a building or structural changes that require planning approval from a relevant local authority in terms of the National Building Regulations and Building Standards Act) within the past two years of operation; and
- has a total net floor area of over 2,000m²

The above mentioned principles also apply to buildings constructed on land owned, operated or occupied by an organ of state (as defined in section 239 of the Constitution of the Republic of South Africa, 1996); provided that the total net floor area is over 1,000m².

Once an Energy Certificate has been obtained by a property owner, operator or occupier (as the case may be), a certified copy of same must, within three calendar months of the date of issuance of the certificate, be submitted to the South African National Energy Development Institute, established under section 7 of the National Energy Act (SANEDI).

An Energy Certificate will remain valid for a period not exceeding five years from the date of issuance. SANEDI has been tasked with maintaining a National Building Energy Performance Register, which must include the particulars of all valid Energy Certificates, whereas the

Department of Mineral Resources and Energy has been tasked to monitor the display of Energy Certificates at the entrances of all non residential buildings.

Persons and entities who/which own, operate or occupy commercial buildings are encouraged to appoint an appropriately qualified professional to apply for and obtain an Energy Certificate and ensure that same is publicly displayed at the entrance of such buildings on or before the Deadline Date. The failure to publicly display such an Energy Certificate is an offence in contravention of the National Energy Act.

In this regard, section 20(1) of the National Energy Act provides that a person who contravenes or fails to comply with any provision of the National Energy Act shall be guilty of an offence and be liable on conviction to

- 1. a fine not exceeding R5,000,000 (five million Rand); and/or
- 2. imprisonment for a period not exceeding five years.

The Minister of Mineral Resources and Energy is empowered to amend the fine amount in order to counter the effect of inflation.

Parties to commercial property transactions may agree, in the underlying agreement, which party will be responsible for obtaining and publicly displaying an Energy Certificate at the entrance of a commercial building. By way of example, if commercial property is managed by a third party operator, the property owner may wish to include obtaining a Energy Certificate as a service to be rendered by the property manager.

In a landlord and tenant arrangement, the parties may also wish to contract on this obligation. Finally, where immovable property is being sold, the seller and the purchaser may agree on which party will be responsible to obtain the Energy Certificate prior to the transfer date, much like other property compliance certificates. Visit [Real Estate](#).



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