



## Australian Government

Department of Climate Change  
and Energy Efficiency

### Commercial Building Disclosure program

#### UPDATE – JULY 2010

The disclosure requirements under the Commercial Building Disclosure program (CBD program) will commence on **1 November 2010**.

The CBD program will ensure that credible and meaningful energy efficiency information is available to prospective purchasers and lessees of large commercial office space. Owners and lessors of commercial office space with a net lettable area of 2,000 m<sup>2</sup> or more, will be required to disclose energy efficiency information to prospective purchasers and tenants when the space is to be sold, leased or subleased.

#### Legislation

All legislation giving effect to the CBD program has now been finalised and, once registered, will be accessible on the Commonwealth Government's legislation website [www.comlaw.gov.au](http://www.comlaw.gov.au), via the program's website. The applicable legislation is listed below:

- *Building Energy Efficiency Disclosure Act 2010*;
- *Building Energy Efficiency Disclosure Act 2010 – Proclamation*;
- *Building Energy Efficiency Disclosure Regulations 2010*;
- *Building Energy Efficiency Disclosure (Disclosure Affected Buildings) Determination 2010*; and
- *Building Energy Efficiency Disclosure Determination 2010*.

#### Transitional provisions

The legislation contains transitional provisions that will apply for the first twelve months of the program (i.e. from 1 November 2010 to 30 October 2011). During this period, a valid National Australian Built Environment Rating System (NABERS) Energy base or whole building rating<sup>1</sup>, must be disclosed. After the transition period, a full Building Energy Efficiency Certificate (BEEC) is required to be disclosed.

#### Advertisements to include energy rating

The NABERS Energy star rating<sup>1</sup> will need to be disclosed in any advertisement about the sale, lease or sublease of the office. The requirements for how star ratings must be disclosed in advertisements are specified in the *Building Energy Efficiency Disclosure Determination 2010*. A fact sheet about the advertising requirements will be released on the program's website in the coming weeks.

#### Requirements for a Building Energy Efficiency Certificate

The requirements to disclose a Building Energy Efficiency Certificate (BEEC) will commence in the second year of the program (i.e. from 1 November 2011) and will include three components:

1. a NABERS Energy base building rating<sup>1</sup>
2. tenancy lighting information
3. generic energy efficiency guidance.

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<sup>1</sup> If a base building rating cannot be obtained due to inadequate metering, a whole building rating will need to be disclosed. NABERS Energy ratings disclosed under the program must be exclusive of GreenPower.

The BEEC will be valid for up to 12 months. At the time of disclosure, the certificate will need to be valid, current and registered on the publicly accessible registry on the program's website.

### **Exceptions and exemptions**

The legislation sets out certain categories of exceptions to, and potential exemptions from, the requirements of the CBD program.

Exceptions for which there is no action required by the owner or lessor include:

- newly constructed offices for which the certificate of occupancy (or equivalent) is less than 2 years old;
- strata-titled offices.

The following transactions do not give rise to a disclosure obligation, even if the relevant office space is a disclosure affected building:

- the sale of a building through the sale of shares or units or the sale of a partial interest in a building; and
- Short-term leases and subleases of 12 months or less.

Exemptions may be applied for in relation to certain types of offices and in relation to the provision of information to assessors. This includes offices used for police or security operations and offices for which it is not possible to obtain a rating. Please refer to the compliance page on the program's website for further details on exemptions.

### **More information**

A new Commercial Building Disclosure program website has been established, with links to the Act and subordinate legislation: [www.cbd.gov.au](http://www.cbd.gov.au).

If information on the website does not answer your questions please email [commercialbuildings@environment.gov.au](mailto:commercialbuildings@environment.gov.au).

Please note that in responding to queries about the program, the Department can only provide general guidance and may not be able to advise on specific issues. The Department cannot provide legal advice, does not guarantee the accuracy or reliability of any information it provides and accepts no legal liability or responsibility for the information it provides. The Department recommends that independent legal advice be obtained to ensure compliance with the legislation.