

Construction LegalUpdate

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New Commercial Buildings Energy Efficiency Disclosure Program

While the introduction of an emissions trading scheme may have slipped off the political agenda of both the major political parties for the time being, other "green" legislation is still being passed.

The **National Greenhouse and Energy Reporting Act 2007** which has the object of introducing a single national reporting framework for the reporting and dissemination of information relating to greenhouse gas emissions, greenhouse gas projects, energy consumption and energy production and which establishes the **National Greenhouse and Energy Register** administered by the Greenhouse and Energy Data Officer has now been in force for a number of years and from 1 July 2010 the reporting threshold under the NGER Act has been reduced to facilities emitting 50 kilotonnes or more of greenhouse gases.

Now as from 1 November 2010 the reporting and disclosure obligations of the commercial building disclosure program (CBD program) under the **Building Energy Efficiency Disclosure Act 2010** come into operation.

The aim of the CBD program is to ensure that credible and meaningful energy efficiency information is available to prospective purchasers and lessees of large commercial office space.

Under the CBD program owners and lessors of commercial office space with a net lettable area of 2,000 sq metres or more are required to disclose energy efficiency information to prospective purchasers and tenants when the space is to be sold, leased or subleased.

While during the first transitional year of the CBD program only a valid National Australian Built Energy Rating System (**NABERS**) energy base or whole building rating must be disclosed, after the transition period a full Building Energy Efficiency Certificate (**BEEC**) is required.

The CBD program establishes a **Building Energy Efficiency Register** which will be accessible to the public and in which all valid BEECs will be recorded, thus making it possible to do on-line searches of the energy efficiency of commercial office spaces covered by the CBD program.

The disclosure requirements of the DBD program apply to building owners, lessors and sublessors who intend to advertise and/or offer for sale, lease or sublease commercial office space. Therefore it will have implications for developers and building owners and tenants who intend to sublease some or all of their commercial office space. There are however statutory exemptions to the disclosure requirements.

To find out whether you are caught by these new disclosure obligations, what effect the CBD program will have on you and what you need to do to comply, contact Alex Ostermayer.

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