

LEGAL UPDATE

Energy label C mandatory for office buildings as of 1 January 2023!

Date: 7 December 2018

The [Decree](#) of 17 October 2018 for amendment of the Buildings Decree 2012 in respect of the labelling obligation for office buildings was published in the Bulletin of Acts and Decrees of 2 November 2018. As a result, starting 1 January 2023 it will no longer be permitted to occupy a building or use a building without at least an energy label C having been issued for that building in accordance with the current criteria. The authorities (usually the municipal council) may act under the Housing Act by applying administrative law. The occupation or continued use of the office without such a label also constitutes a violation under the Economic Offences Act.

The Decree describes a number of exceptions. The ban does not apply:

1. If the usable area of the office functions is less than 50% of the total usable surface area of the building;
2. If the total usable area of office functions and ancillary functions is less than 100 m² (but dividing is not allowed!);
3. If the office building is a national, provincial or municipal listed building; and
4. If the measures to raise the level of the office building to an energy label C by 1 January 2023 have a longer payback time than ten years. In that case, measures with a payback time of up to ten years will suffice.

If the office building is leased, the lessee may run the risk of having to pay for the measures (rather than the owner of the building). That risk exists in particular for ROZ 2003 and 2015 contracts. For new lease agreements or lease renewals, it is crucial that parties (particularly lessees) anticipate this new legislation so as to avoid unpleasant surprises later on.

This is a Legal Update from Hans van Noort.

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