

## **2018 EPC minimum energy efficiency standards laid before Parliament**

Government response to 22 July 2014 Consultation on the non-domestic private rented sector energy efficiency regulations (England and Wales)

On the 4<sup>th</sup> February 2015, the Department of Energy and Climate Change (DECC) published their response to the 22<sup>nd</sup> July 2014 Consultation on the non-domestic private rented sector energy efficiency regulations for England and Wales and submitted the proposed regulations for Parliamentary approval. Subject to Parliamentary approval, the regulations will be implemented as follows:

### **Scope**

- The regulations will apply to the non-domestic private rented sector in England and Wales.
- The regulations will exclude from this definition any property which is let on a tenancy which is granted for a term of 6 months or less and any property let on a tenancy for 99 years or more.
- All non-domestic property types are in scope of the regulations, except for those specifically excluded from existing Energy Performance Certificate (EPC) obligations, as set out in the EPC regulations.
- The regulations will be applied to sublets.
- Landlords will be given an extension of six months from the date of the grant of the tenancy before they are required to comply with the regulations.
- Where a non-compliant property occupied by a tenant is sold, the new landlord will have six months to improve the property, or seek to demonstrate an exemption applies.
- The Government proposes to apply the regulations on lease renewals (where the property has an EPC) as this is an opportune point at which landlord and tenant are in negotiation.

### **Minimum standard**

- The minimum energy efficiency standard will be set at an 'E' EPC rating.

### **Exemptions:**

- The measures are not cost-effective, either within a seven year payback, or under the Green Deal's Golden Rule.
- Despite reasonable efforts, the landlord cannot obtain necessary consents to install the required energy efficiency improvements, including from tenants, lenders and superior landlords.
- A relevant suitably qualified expert provides written advice that the measures will reduce a property's value by 5% or more, or that wall insulation required to improve the property will damage the property.

### Timing

The regulations will be enforced upon the granting of a lease to a **new tenant** from the 1 April 2018. From 1 April 2023, the regulations will apply to all privately rented property in scope of the regulations, including where a lease is already in place and a property is occupied by a tenant.

### Enforcement

- Local authorities will enforce the provisions. It is expected that Trading Standards will undertake enforcement activity, but local authorities may choose to use other functions to undertake enforcement responsibilities.
- Where a landlord considers an exemption applies allowing them to let their property below an 'E' EPC rating, the landlord will need to notify this on a centralised register - the "*Private Rented Sector (PRS) Exemptions Register*".

### Compliance notes and penalties

- Where a local authority suspects that a landlord with a property in scope of the regulations is not compliant, or has not sufficiently proved an exemption, the local authority can serve a compliance notice on the landlord requesting further information it considers necessary to confirm compliance. If this is not provided, or is provided and is not sufficient to prove compliance, the local authority may proceed to issuing a penalty notice.
- The penalty regime for non-compliance with the regulations will reflect the degree of infringement, and length of non-compliance. In some cases the infringement will be made public to encourage compliance. Penalties may be cumulative. The penalty regime will be as follows:

Infringement	Penalty	
Providing false or misleading information to the PRS Exemptions Register: Failing to comply with a compliance notice from a local authority	£5,000 Publication of non-compliance	
Renting out a non-compliant property	<b>Less than 3 months non-compliance</b>  10% of rateable value, but with a minimum penalty of £5,000 and a maximum penalty of £50,000  Publication of noncompliance	<b>3 months or more of non-compliance</b>  20% of rateable value, but with a minimum penalty of £10,000 and a maximum penalty of £150,000  Publication of noncompliance

### Reviews

Upon receiving a penalty notice from a local authority, a landlord may request a review of the local authority's decision to serve the notice

### **Appeals**

- Landlords may appeal a penalty imposed for non-compliance with the regulations on the basis that the penalty notice was issued in error, that the penalty does not comply with the regulations, or that it was inappropriate in the circumstances for the penalty notice to have been served.
- The Government intends to place responsibility for handling of appeals relating to the imposition of penalties for non-compliance with the minimum standard regulations with the First-tier Tribunal, General Regulatory Chamber.

### **Other**

- The Government will not set a longer term trajectory. They believe it is important to learn from experience in implementing these regulations. As such, there will be a provision for regular review of the regulations. The Government intends that the first review would be carried out in 2020.
- DECC will continue to work with the Department for Communities and Local Government (DCLG) to ensure that the EPC regime and the PRS regulations work together to best effect.