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trading standards law explained

Energy efficiency of rented property: domestic

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This guidance is for England and Wales

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are intended to improve the standard of energy efficiency in both the domestic and non-domestic private rented sector in England and Wales.

The Regulations target properties that are currently rated F or G on their Energy Performance Certificates (EPCs), implementing measures to raise their rating to a minimum of E. This will reduce the emissions produced by heating and powering these buildings, which currently accounts for 12% of UK emissions.

This guidance covers the requirements for domestic property (those that are residential dwellings not used for commercial purposes).

What is the minimum level of energy efficiency?

The Regulations prohibit the letting of substandard (lower than band E) domestic property, under a phased approach:

- since 1 April 2018, landlords of domestic private rented properties (including public sector landlords) may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G (shown on a valid EPC for the property)
- since 1 April 2020, landlords must not continue letting a domestic property that is already let if that property has an EPC rating of band F or G

Which properties are covered?

The Regulations only apply to those properties let on assured, regulated and agricultural tenancies that are legally required to have an EPC. Since 2008, the majority of domestic properties have been required to have an EPC. There are exceptions if the property is:

- listed or officially protected and the minimum energy performance requirements would unacceptably alter it
- a temporary building that is only going to be used for two years or less
- used as a place of worship or for other religious activities
- an industrial site, workshop or non-residential agricultural building that doesn't use much energy
- a detached building with a total floor space of less than 50 m^2
- a residential building that is intended to be occupied for less than four months of the year, or for a limited annual time of use, and with an expected energy consumption of less than 25% of what would be the result of all-year round use
- due to be demolished by the seller or landlord and they have all the relevant planning and conservation consents
- an HMO ('house in multiple occupation' - for example, bedsits, hostels, shared houses, etc) that has not been subject to a sale in the previous ten years, nor been let as a single rental in the past ten years

See the 'Energy Performance Certificates' guide for more details.

Both private, local authority and other public body landlords are covered, as well as a tenant who sub-lets a property falling within the scope of the Regulations. The Regulations do not apply to properties let on a tenancy of less than six months or more than 99 years.

The Regulations contain similar requirements for non-domestic properties. Where a property is of mixed use, in that it contains both residential and commercial units (such as a shop with a flat / flats above), and these are let separately, the relevant provisions for domestic property will apply to the flats, and the non-domestic requirements to the shop. If the property is let as a whole then the landlord will need to examine the tenancy to determine whether it is a residential or commercial lease.

What if the property is currently a F or G rating?

If the EPC for the property currently shows a rating of F or G, then the landlord should have made improvements to bring the property up to an E rating before the relevant date.

If the tenant has a right to renew under the Landlord and Tenants Act 1954, the Regulations do not interfere with these rights, therefore neither the tenant nor the landlord can use the non-compliance as a justification for refusing to renew, or terminating the lease early.

To improve the energy efficiency of a building there are a number of possible improvements that may have been recommended by the energy assessor compiling the EPC, or can be obtained through a surveyor or other energy efficiency advisor. This may include improvements or extensions to heating and ventilation systems, insulation, glazing, etc.

How much will it cost?

Where recommendations list one or more improvement measures that are suitable for a property, a recommended energy efficiency measure will only be a 'relevant energy efficiency improvement' where:

- third-party funding is available, which will cover the full cost of purchasing and installing the improvement(s), such as central or local government grants, grants from energy producers or Green Deal finance
- third-party funding is unavailable, but the improvement(s) can be made for £3,500 or less (inclusive of VAT) using the landlord's own funding
- the improvement(s) can be installed through a combination of landlord self-funding and third-party funding with a total cost of £3,500 or less (inclusive of VAT)

Further information is contained in the guidance produced by the Department for Business, Energy and Industrial Strategy (BEIS) (see '**Further information**' below).

Are any properties exempt from the requirements?

There are certain circumstances where a landlord can seek an exemption from the requirements:

- where all relevant improvements have been made but the property remains below E rated
- where the cost of relevant improvements is in excess of the spending cap (evidence must be provided, with three separate quotes showing the cost to be over £3,500)
- where a property is below an E rating and there are no improvements that can be made
- if the landlord has obtained expert advice in writing (ideally from an architect, chartered engineer or surveyor, but can be an independent installer of the insulation system), which states that cavity / internal / external wall insulation is not appropriate as it will have a negative impact on the fabric or structure of the property, or the building if the property forms part of a larger building
- if third-party consent is required before improvements can be installed - for example, planning consent for solar panels or external wall insulation, consent from mortgage lenders or existing tenants - the landlords must make reasonable attempts to obtain consent. The exemption will last for five years or until the end of the tenancy (if it relates to obtaining tenants' consent)
- where the landlord has obtained a report from a registered valuer (on the register of the Royal Institute of Chartered Surveyors (RICS)) that the installation of specific improvements would reduce the market value of the property - or the building it forms part of - by more than 5%. This exemption will last for five years
- when the landlord purchased an interest in the property, it was let on an existing tenancy. This exemption lasts for six months

There is also an exemption when a person becomes a landlord suddenly, due to one of the circumstances below, and it would be inappropriate or unreasonable to be required to comply immediately:

- a lease has been granted due to a contractual obligation
- where the tenant becomes insolvent and the landlord has been the tenant's guarantor
- the landlord has been a guarantor, or a former tenant, who has exercised the right to obtain an overriding lease of a property under section 19 of the Landlord and Tenant (Covenants) Act 1995
- a new lease has been deemed created by operation of law
- a new lease has been granted under Part 2 of the Landlord and Tenant Act 1954
- a new lease has been granted by a court order, other than under the Landlord and Tenant Act 1954

How do I register an exemption?

All exemptions must be registered on the national PRS Exemptions Register (PRS meaning 'private rented sector').

Landlords can self-certify their exemptions and the register will be monitored by local authorities as an

enforcement tool, and also by BEIS to monitor the impact of the legislation. There is public access to some information, including addresses of properties where exemptions have been registered, names of landlords (except where the landlord is an individual), the nature of the exemptions, as well as valid EPCs for properties.

In order to register, landlords will need to have details of the address of the property, which exemptions are to be registered and a valid EPC for the property. Depending on the exemption sought, the landlord will also need any expert advice or reports in writing that provide evidence to support the reason for the exemption.

The EPC for a property can be transferred if the property is sold; however, any registered exemptions will not be transferred and will cease to apply once the property is sold.

Further information

BEIS has produced comprehensive landlord guidance documents for domestic property and has also published guidance on PRS exemptions and Exemptions Register evidence requirements.

Trading standards

For more information on the work of trading standards services - and the possible consequences of not abiding by the law - please see 'Trading standards: powers, enforcement and penalties'.

In this update

Two new sections have been added: **'What if the property is currently a F or G rating?'** and **'How much will it cost?'**.

Last reviewed / updated: December 2022

Key legislation

Landlord and Tenants Act 1954

Building Regulations 2010

Energy Performance of Buildings (England and Wales) Regulations 2012

Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links often only shows the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on changes to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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