



Department for
Business, Energy
& Industrial Strategy

THE DOMESTIC PRIVATE RENTED PROPERTY MINIMUM STANDARD

Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*



October 2017

THE DOMESTIC PRIVATE RENTED PROPERTY MINIMUM STANDARD

Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*

© Crown copyright 2017

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Any enquiries regarding this publication should be sent to us at: enquiries@beis.gov.uk.

Note on the Regulations and Guidance

This document provides interpretation and guidance for landlords, enforcement authorities and others with an interest in the domestic private rented sector on the operation of Part Three of the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* in relation to domestic property. This guidance is designed to help landlords to meet their obligations under the PRS (Private Rented Sector) Regulations provisions. It is not legally binding. The Department of Business, Energy and Industrial Strategy (BEIS) cannot provide legal advice nor can it provide a definitive interpretation of the law; as this is a matter for the courts. If landlords or others involved in the letting of domestic private rented property have questions about the Regulations and their implications, they should seek professional, independent legal advice.

The Regulations were approved by Parliament and made on 26 March 2015. The original version of the Regulations is available online [here](#)¹. The Regulations were subsequently amended in June 2016 to postpone the dates on which the PRS Exemptions Register will open to domestic and non-domestic landlords. The amending regulations are available online [here](#)².

The Regulations fulfil a duty placed on the Secretary of State in the *Energy Act 2011* to introduce Regulations to improve the energy efficiency of buildings in the domestic and domestic private rented sector in England or Wales. A public consultation was carried out between 22 July and 2 September 2014 which sought views across England and Wales on the detail of the Regulations. A response to the consultation was published on the gov.uk website. It includes a summary of views received on the consultation and the Government's decisions on how the Regulations will operate. The domestic consultation and Government response is available [here](#)³.

This guidance text will be kept under review and may be updated from time to time in light of any feedback received to ensure it meets user needs. It will also be updated if amendments are made to the Regulations in future.

Please note: on 19 December 2017 Government published a consultation on steps to make the domestic *Energy Efficiency (Private Rented Property) Regulations* more effective. This consultation paper is available [here](#)⁴.

¹ www.legislation.gov.uk/uksi/2015/962/pdfs/uksi_20150962_en.pdf

² www.legislation.gov.uk/uksi/2016/660/pdfs/uksi_20160660_en.pdf

³ www.gov.uk/government/consultations/private-rented-sector-energy-efficiency-regulations-domestic

⁴ www.gov.uk/government/consultations/domestic-private-rented-sector-minimum-level-of-energy-efficiency and <https://beisgovuk.citizenspace.com/home-local-energy/prs-minimum-energy-efficiency-standards>

Contents

Glossary	5
Introduction	7
Chapter 1: How the Regulations Apply to Domestic Property	13
1.1 Domestic PRS scope	13
1.1.2 Meeting the minimum standard, and sub-standard property	14
1.1.3 Relevant tenancies	14
1.1.4 Energy Performance Certificate (EPC) ratings	15
1.2 When do the minimum level of energy efficiency provisions apply?	23
1.3. Mixed use properties and tenancy types	26
Chapter 2: Minimum Standards Improvements and Funding	35
2.1.1 Relevant energy efficiency improvements and recommendations reports	35
2.1.2 Relevant energy efficiency improvements and funding	37
The Green Deal and Pay As You Save Finance	39
Energy Company Obligation (ECO): Help to Heat	40
Additional 'no-cost' funding options	43
Chapter 3: Technical Advice for Landlords on making Energy Efficiency Improvements	46
Chapter 4: Exclusions and Exemptions	50
4.1.1 Where all the 'relevant energy efficiency improvements' for the property have been made	52
4.1.2 Where a measure cannot be wholly financed at no cost to the landlord	53
4.1.3 Wall insulation exemption	54
4.1.4 Third party consent exemption	54
4.1.5 Property devaluation exemption	56
4.1.6 Temporary exemption due to recently becoming a landlord	59
Chapter 5: The National PRS Exemptions Register	63
5.1 The Exemptions Register	63
5.1.1 General principles of the register	63

5.2 Exemptions Register data and evidence requirements _____	66
Chapter 6: Enforcement of the Domestic Minimum Level of Energy Efficiency ____	71
6.1 Compliance and enforcement _____	71
6.2 Penalties _____	70
6.3 Appeals	
80_Toc493751575	
Appendix A: Minimum Level of Energy Efficiency Provisions Flow Chart _____	81
Appendix B: Information on Common Tenancy Types _____	83
Appendix C: Regulation 8 of the Energy Performance of Buildings (England and Wales) Regulations 2012 _____	86
Appendix D: Measures fundable under the Green Deal Finance Mechanism ____	88
Appendix E: The Building Regulations 2010 Excerpt _____	90

Glossary

Domestic Private Rented Property – any private rented property that is a residential dwelling not used for commercial purposes, as defined in Regulation 19(1) and section 42(1)(a) of the *Energy Act 2011*.

Energy Performance Certificate (EPC) – a certificate (and associated report) that sets out the energy efficiency rating of a property and contains recommendations for ways in which the energy efficiency of the property could be improved. Virtually all domestic (and non-domestic) buildings sold, rented out or constructed since 2008 must have an EPC. An EPC may also be required when a property is altered in particular ways.

First-tier Tribunal – part of the court system administered by Her Majesty's Courts and Tribunals Service. The Tribunal will hear landlord appeals relating to enforcement of the Regulations.

Green Deal – a finance mechanism which enables consumers (property owners and occupiers) to take out loans to pay for energy efficiency improvements in their properties, with repayments made through their energy bill. Repayments are made on a “Pay As You Save” (PAYS) basis: after the improvement has been made, the occupant begins to save energy, their energy bills are less than they would have been without the improvement, and these savings offset the loan. A formula known as the “Golden Rule” (see below) helps to ensure that the payments do not exceed the savings.

Green Deal Assessor – an approved organisation or individual, certified by an accredited Green Deal Certification Body to carry out property assessments and recommend energy efficiency improvements. They may work independently or be part of a larger Green Deal Provider organisation.

(Green Deal) Golden Rule - when a Green Deal finance Plan is agreed, the maximum level of borrowing is determined using an estimate of the savings on energy bills the bill payer is expected to make in the first year after installment of the measure (calculated on the basis of ‘typical’ occupancy), and the estimated period over which the savings are likely to be made. The first year’s repayments must not exceed the estimated first year saving, and the payment period must not exceed the savings period. This method of calculating the amount a consumer may borrow is known as the Golden Rule.

Homes in Multiple Occupation (HMO) - a property where both of the following conditions apply: 1) at least 3 tenants live there, forming more than 1 household, and 2) the tenants share toilet, bathroom or kitchen facilities with other tenants.

Landlord – a person or entity that lets, or proposes to let, a domestic private rented property. A tenant may also be a landlord, if they in turn are letting some or all of the property they are themselves renting.

Lease – a legal agreement between a leaseholder and a landlord (sometimes known as the ‘freeholder’). A leaseholder will only own a leasehold property for a fixed period of time, the lease sets out how many years the leaseholder own the property. Ownership of the property returns to the landlord when the lease comes to an end.

Listed Building – a building that has been placed on the Statutory List of Buildings of Special Architectural or Historic Interest. A listed building may not be demolished, extended, or altered without special permission from the local planning authority.

The Minimum Level of Energy Efficiency – the prescribed minimum EPC band (band E) allowed under the Regulations for domestic private rented property which is let (including renewal) from the 1 April 2018, or which continues to be let from 1 April 2020, subject to any qualifying exemptions.

Mortgagee – The person or company to whom a mortgage or charge over property is granted as security for a loan.

PRS Exemptions Register – the register established under Regulation 36(1) on which landlords of sub-standard property may register certain information relating to the property (including grounds for exemption from compliance with the Regulations). The register will be open to domestic landlords from the 1st October 2017.

Recommendation Report – a report with recommendations made by an energy assessor for the cost-effective improvement of the energy performance of a building (as defined in Part 1, section 4 (1) of *The Energy Performance of Buildings (England and Wales) Regulations 2012*).

The Regulations – The *Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015* (as amended from time to time). All references to regulation numbers in bold in this guidance document refer to these Regulations.

Sub-Standard Property – domestic privately rented property with an EPC rating of F or G.

Superior Landlord – the person or company for the time being who owns the interest in the property which gives him the right to possession of the premises at the end of the Landlord's lease of the property.

Tenancy – a contractual arrangement under which a tenant pays a landlord (generally the owner) for use of an asset, in this case a domestic property (which may be either a building, or a unit within a building).

Tenant – a person or company to whom a tenancy of domestic private rented property is granted.

Publication penalty – is where an enforcement authority takes actions to publish some details of a landlord's breach, on the publicly accessible part of the PRS Exemptions Register.

Introduction

This document provides guidance and advice to landlords of domestic property, local authorities, and others with an interest in the minimum level of energy efficiency required to let private domestic property under the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*.

The *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* (henceforth “the Regulations”) are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property, effecting new tenancies from 1 April 2018. This guidance relates to domestic property only. Corresponding guidance to landlords of non-domestic property can be found [here](#)⁵.

The current domestic regulations are based on a principle of ‘no cost to the landlord’, this means that landlords of F or G rated homes will only be required to make improvements to these properties where they can do so entirely using third party finance from one or more sources. This is discussed in detail in chapter two.

Benefits of Energy Efficiency

EPC F and G rated properties waste energy. They impose unnecessary cost on tenants and the wider economy, and they contribute to avoidable greenhouse gas emissions. Increasing the energy efficiency of our domestic rental stock can help:

- manage the energy costs of tenants, including some of the most vulnerable;
- improve the condition of properties and help reduce maintenance costs;
- smooth seasonal peaks in energy demand, and thereby increase our energy security;
- reduce greenhouse gas emissions at relatively low cost.

Increased demand for energy efficiency measures is also likely to support growth and jobs within the green construction industry and the wider supply chain for energy efficiency. Greater

⁵ www.gov.uk/government/publications/the-non-domestic-private-rented-property-minimum-standard-landlord-guidance

competition within these markets may also spur innovation, lowering the end costs of installing measures to business and households, and help sustain jobs.

Tenants and Landlords

The Regulations are intended to ensure that those tenants who most need more efficient homes, particularly vulnerable people, are able to enjoy a much better living environment and lower energy bills. Although newly built homes in the private rented sector tend to have higher energy-efficiency ratings than the average, there remains a stock of older, less modern properties, and many of these have poor energy efficiency and are difficult and costly to heat. These less efficient properties result in higher tenant energy bills, and for many, the likelihood of living in fuel poverty.

Average Annual Cost of Energy

Data shows that the average annual cost of energy for an EPC band G property is £2,860, and £2,180 for an F rated property. This contrasts with an average annual cost of £1,710 for an EPC band E property⁶. Therefore a tenant whose home is improved from EPC band G to band E could expect to see their energy costs reduced by £1,150 a year so long as there were no wider changes in how they use energy in the property.

Living in private rented accommodation significantly increases the likelihood of a household being fuel poor, so much so that around a third of all fuel-poor households in England live in the private rented sector, despite the sector accounting for only around a fifth of all households in England and a seventh of the households in Wales.

Amongst EPC F and G rated properties in the sector, recent data shows that 45% of households are classified as fuel poor. Put simply, the PRS has a disproportionate share of the UK's least energy-efficient properties and fuel-poor households. Installation of energy efficiency measures can help address this.

While tenants will benefit in terms of reduced energy bill spend, or through increased warmth, comfort and the associated health benefits, energy efficiency improvements also benefit landlords. When the Regulations were being designed, a number of landlords associations identified a range of benefits for landlords including increased tenant satisfaction and reduced void periods; reduced long-term property maintenance costs; and making properties more attractive and easier to let.

A 2016 report by Sustainable Homes on social housing, for instance, demonstrated that improving the energy efficiency of rental housing reduces both rent arrears and voids⁷. The

⁶ Energy cost data based on the 2014 English Housing Survey.

⁷ www.sustainablehomes.co.uk/research-project/rent-arrears/

research showed that:

- as homes become more efficient, they are void for a shorter period of time (31% less for band B properties than E or F);
- Cold homes have an average of 2 more weeks of rent arrears each year than higher efficiency homes,
- the wider costs of tackling rent arrears and voids are significant and can be reduced. Costs related to chasing overdue rent payments (including legal and court costs) decline by 35% for more efficient homes.

Increasing a property's energy efficiency may also increase its market value. Data from a recent UK hedonic price study indicates that energy efficiency improvements increase the market value of buildings. This finding is in line with similar studies in other countries. Evidence shows that a significant proportion of domestic UK landlords invest in property because of the potential for long-term capital appreciation. Investing in energy efficiency means that those landlords may benefit from a further capital value boost when they do finally look to sell an improved property.

More information on the direct and wider benefits of energy efficiency can be found [here](#)⁸.

The Minimum Level of Energy Efficiency

The Regulations set out the **minimum level of energy efficiency** for private rented property in England and Wales. In relation to the domestic private rented sector the minimum level is an energy performance certificate (EPC) rating of **band E**. Landlords who are installing relevant energy efficiency improvements may, of course, aim above and beyond this current requirement if they wish.

Prohibition on letting sub-standard property

The minimum standard will apply to any domestic privately rented property which is legally required to have an EPC and which is let on certain tenancy types. Where these two conditions are met the landlord must ensure that the standard is met (or exceeded); this is discussed in greater detail in chapter one.

Landlords of domestic property for which an EPC is not a legal requirement are not bound by the prohibition on letting sub-standard property. Please see section 1.1.4 in chapter one for further details on EPC requirements and exemptions.

The minimum level of energy efficiency means that, subject to certain requirements and exemptions:

- a) from the 1st April 2018, landlords of relevant domestic private rented properties may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or

⁸ http://www.iea.org/publications/freepublications/publication/Captur_the_MultiplBenef_ofEnergyEfficiency.pdf

-
- G (as shown on a valid Energy Performance Certificate for the property);
- b) from the 1st April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating of band F or G (as shown on a valid Energy Performance Certificate for the property).

In both cases this is referred to in the Regulations and in this guidance as **the prohibition on letting sub-standard property**. Where a landlord wishes to continue letting property which is currently sub-standard, they will need to ensure that energy efficiency improvements are made which raise the EPC rating to a minimum of E. In certain circumstances landlords *may* be able to claim an exemption from this prohibition on letting sub-standard property; this includes situations where the landlord is unable to obtain funding to cover the cost of making improvements, or where all improvements which can be made have been made, and the property remains below an EPC rating of Band E.

Where a valid exemption applies, landlords must register the exemption on the national PRS Exemptions Register. Full details of exemptions, and the Exemptions Register, are set out in chapters four and five of this guidance.

The Regulations cross refer to other existing regulations, including the *Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2007*, the *Building Regulations 2010* and the *Energy Performance of Buildings (England and Wales) Regulations 2012*. PDFs of these related regulations can be found [here](#)⁹, [here](#)¹⁰ and [here](#)¹¹.

Enforcement of the Minimum Level of Energy Efficiency

Local authorities will enforce compliance with the domestic minimum level of energy efficiency. They may check whether a property meets the minimum level of energy efficiency, and may issue a compliance notice requesting information where it appears to them that a property has been let in breach of the Regulations (or an invalid exemption has been registered in respect of it). Where a local authority is satisfied that a property has been let in breach of the Regulations it may serve a notice on the landlord imposing financial penalties. The authority may also publish details of the breach on the national PRS Exemptions Register. The landlord may ask the Local authority to review the penalty notice and, if the penalty is upheld on review, the landlord may then appeal the penalty notice to the First-tier Tribunal. Details of this process are set out in chapter six. A local authority may also serve a penalty notice for the lodging of false information on the Exemptions Register.

⁹ www.legislation.gov.uk/uksi/2007/991/pdfs/uksi_20070991_en.pdf

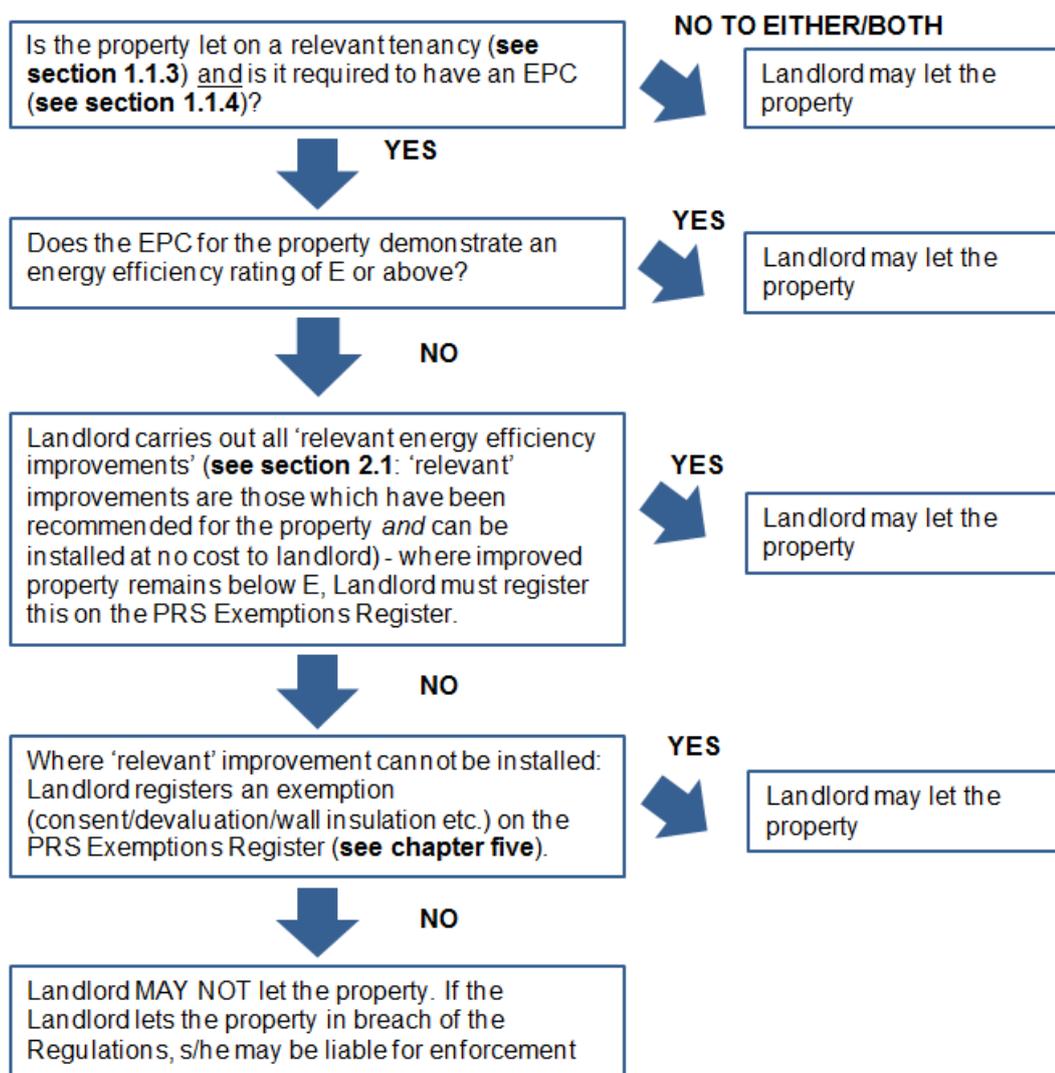
¹⁰ www.legislation.gov.uk/uksi/2010/2214/pdfs/uksi_20102214_en.pdf

¹¹ www.legislation.gov.uk/uksi/2012/3118/pdfs/uksi_20123118_en.pdf

Minimum Standards Regulations Compliance Decision Process

Figure 1 below sets out the key decision points a landlord will need to consider to help them comply with their responsibilities under the Regulations:

Figure 1- decision tree for minimum level of energy efficiency process



Note: an expanded decision tree for the minimum energy efficiency process is at **Appendix A** of this guidance.

Green Deal Finance

The Green Deal, which was introduced in 2013, is one of the ‘financial arrangements’ that landlords of domestic properties can use to fund improvements under the Regulations.

Where available, Green Deal finance will enable landlords to cover some or all of the costs of compliance through the Pay As You Save mechanism.

Box One

The Green Deal and Pay As You Save Finance

The Green Deal enables households and property owners to take out loans to pay for energy efficiency improvements in their homes or rental properties, with repayments made through the electricity bill for the improved property. Repayments are made on a “Pay As You Save” (PAYS) basis: after the improvement has been made, the household begins to save energy, their energy bills are less than they would have been without the improvement, and these savings are used to repay the loan.

The finance mechanism includes a principle called the “Golden Rule”. This states that the first year’s repayments must not exceed the estimated first year saving, and the overall repayment period must not exceed the lifetime of the measures installed. A mechanism exists for owners to pass the loan on to future occupants of the property.

Green Deal finance is one way that landlords can meet their statutory requirements with no up-front cost: the electricity bills at the rental property (with a Green Deal charge attached) are paid by the tenant rather than the landlord. A tenant who pays the Green Deal loan for as long as they pay the electricity bill at the property should enjoy energy bill savings equal to or greater than the charge.

Chapter 1: How the Regulations Apply to Domestic Property

The minimum level of energy efficiency provisions described in this guidance are designed to ensure that, unless an exemption applies, a domestic private rented property in England or Wales must not be let on a new tenancy after 1 April 2018 where its energy performance indicator is below the set minimum level of energy efficiency (unless an exemption applies). The minimum level of energy efficiency, or minimum standard, allowed by the Regulations is an Energy Performance Certificate (EPC) rating of E.

This chapter is aimed at domestic landlords and outlines the factors landlords will need to consider when determining if a property they let is covered by the minimum level of energy efficiency provisions. Enforcement authorities and others with an interest in domestic rented property will also find this information useful.

1.1 Domestic PRS scope

1.1.1 Properties covered by the minimum level of energy efficiency provisions

1. The Regulations discussed in this guidance document apply to domestic privately rented properties in England and Wales which are:
 - a. let under *certain* types of domestic tenancy (see section 1.1.3 below) **and**
 - b. which are legally required to have an Energy Performance Certificate (EPC) (see section 1.1.4 below).

This means that where a property is let on a relevant tenancy type but is *not* legally required to have an EPC, or if it is required to have an EPC but is *not* let on a relevant tenancy, that property will not be required to comply with the requirements of the Regulations.

Licence vs Tenancy

Please note, licences are not the same as tenancies, and a licence is not considered to be a tenancy for the purposes of the Regulations. A tenancy grants exclusive possession of the property, while a licence is merely permission for a licensee to do something on the property. If there are any concerns about whether a property is occupied under a licence or a tenancy, and whether the landlord is subject to the Regulations, legal advice should be sought.

1.1.2 Meeting the minimum standard, and sub-standard property (Regulation 22)

2. Where a domestic private rented property is legally required to have an Energy Performance Certificate (EPC) and is let on one of the tenancy types described at 1.1.3 below, it will meet the minimum standard if, from the trigger dates discussed at section 1.2.1, it has a valid EPC which shows that the energy efficiency rating for the property is E or above. Where a property is at EPC E or above, the landlord will not be required to take any further action in order to comply with the Regulations.
3. A property is below the minimum level of energy efficiency, and is therefore defined by the Regulations as sub-standard; where there is a valid EPC which states the rating is below an E (i.e. it is an EPC rating of F or G).

1.1.3 Relevant Tenancies (Regulation 19)

4. For the purposes of the domestic minimum standard provisions the relevant tenancy types are¹²:
 - An **assured tenancy** (including an assured shorthold tenancy) defined in

¹² The tenancies in scope of the domestic Minimum Standard Regulations are defined in the *Energy Act 2011*, section 42 (1) (a) and the *Energy Efficiency (Domestic Private Rented Property) Order 2015*.

the *Housing Act 1988*;

- A **regulated tenancy** defined in the *Rent Act 1977*;
- A domestic **agricultural tenancy** as set out in the *Energy Efficiency (Domestic Private Rented Property) Order 2015*¹³ as follows:
 - A tenancy which is an assured agricultural occupancy for the purposes of section 24 of the *Housing Act 1988*;
 - A tenancy which is a protected occupancy for the purposes of section 3(6) of the *Rent (Agriculture) Act 1976*;
 - A statutory tenancy for the purposes of section 4(6) of the *Rent (Agriculture) Act 1976*.

5. Background information on common domestic tenancy types can be found [here](#)¹⁴ and at **Appendix B**.

Social Housing Exclusion

The minimum standards do not apply in the social housing sector, therefore, even if a property is let on one of the tenancy types listed above, it will be excluded from the minimum standard provisions if it is any of the following¹⁵:

- Low cost rental accommodation defined by section 69 of the *Housing and Regeneration Act 2008* and the landlord is a private registered provider of social housing; or
- Low cost home ownership accommodation within the meaning of section 70 of the *Housing and Regeneration Act 2008*.

A property will also be excluded if the landlord is a body registered as a social landlord under Chapter 1 of Part 1 of the *Housing Act 1996*.

1.1.4 Energy Performance Certificate (EPC) ratings

1.1.4.1 EPC Overview

6. As noted at the beginning of this chapter, alongside tenancy type

¹³ www.legislation.gov.uk/uksi/2015/799/made

¹⁴ www.gov.uk/private-renting-tenancy-agreements/tenancy-types

¹⁵ The exclusion of social rented property is defined in the *Energy Act 2011*, section 42(2).

considerations, the Regulations only apply to those domestic properties which are legally required to have an **Energy Performance Certificate (EPC)**. This means properties required to have an EPC by any of the following:

- The *Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007*¹⁶,
- The *Building Regulations 2010*,
- The *Energy Performance of Buildings (England and Wales) Regulations 2012*.

7. Broadly speaking, since 2008 an owner or landlord has, on sale, letting or construction of a property been required to make an EPC available to the prospective buyer or tenant (although in the case of construction projects, typically the person carrying out the work will supply the EPC)¹⁷. In addition to the above, a new EPC is likely to be necessary if a building is modified to have more or fewer parts than it originally had and the modification includes the provision or extension of fixed services for heating, hot water, air conditioning or mechanical ventilation (i.e. services that condition the indoor climate for the benefits of the occupants). While some of the improvements which may be made to a property in order to comply with the Regulations may count as modification for the purposes of the EPC requirements, the majority will not. Published guidance on EPC requirements for domestic properties can be found [here](#)¹⁸.
8. Where an EPC is legally required for a property, then not having one is unlawful and could be subject to non-compliance penalties¹⁹. In terms of enforcement, local weights and measures authorities (usually through their trading standards officers) are responsible for enforcing the regulations that require an EPC to be made available. The Department for Communities and Local Government (DCLG) monitors enforcement activity through regular

¹⁶ The 2007 regulations have been repealed. However the PRS Minimum Standards Regulations still recognise valid EPCs which were required by the 2007 regulations.

¹⁷ Since October 2015, where a landlord hasn't provided an assured shorthold tenant with an EPC, he or she won't be able to evict them using a section 21 notice, the so-called "no fault" eviction procedure. Alongside the EPC, landlords are also required to provide tenants with a Gas Safety certificate, and a copy of the special "[How to rent](#)" guide. Failing to do so will make it more difficult to evict tenants. These requirements were introduced through the *Deregulation Act 2015*; more information on this is available at: www.gov.uk/government/publications/retaliatory-eviction-and-the-deregulation-act-2015-guidance-note. See also: www.gov.uk/government/publications/how-to-rent

¹⁸ www.gov.uk/government/publications/energy-performance-certificates-for-the-construction-sale-and-let-of-dwellings

¹⁹ A property owner and/or landlord may be fined between £200 and £500 if they do not make an EPC available to any prospective buyer or tenant.

reports compiled and submitted by these authorities.

9. Further information on EPC requirements for dwellings can be found online at:

www.gov.uk/buy-sell-your-home/energy-performance-certificates

and

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508827/1600315_enforcement_guidance_Final.pdf

A sample EPC in PDF format is available on the [GOV.UK](http://www.gov.uk) website.

10. Please note that there is no obligation to obtain an EPC on a letting of an individual non self-contained unit within a property, such as a bedsit or a room in a house in multiple occupation (HMO). However the property in which the unit is situated may already have its own EPC covering that property as a whole; this could be because the property had been bought within the past ten years, or because it had previously been rented out on a whole-property basis. If a property as a whole has a valid EPC and that EPC shows an energy efficiency rating of F or G, then the owner/landlord will not, from April 2018, be able to issue new tenancies for non-self-contained units within the property until steps are taken to comply with the Regulations.
11. Where a property already has a valid EPC, this EPC can be retrieved from the [Domestic Energy Performance Certificate Register](http://www.epcregister.com)²⁰ (unless the owner has opted out of the EPC register). You can search for the EPC by the [property's address](#)²¹ or by the EPCs report [reference number](#)²².
12. When produced, an EPC will also be accompanied by a recommendations report setting out any energy efficiency measures which may be suitable for installation in the property²³. Answers to a range of frequently asked questions about EPCs can be found [here](#)²⁴.

²⁰ www.epcregister.com/home.html

²¹ www.epcregister.com/reportSearchAddressTerms.html

²² www.epcregister.com/searchReport.html

²³ An EPC is valid where the data from which it may be produced has been lodged on the Energy Performance of Building register less than ten years before the date on which it is relied on for these Regulations in accordance with the *Energy Performance of Buildings (England and Wales) Regulations 2012* and it is the most recent EPC on the register for that property.

²⁴ www.epcregister.com/faq.html

1.1.4.2 EPC Ten Year Validity

13. Once an EPC is lodged on the EPC register (the EPC assessor is responsible for ensuring this happens) it is valid for a period of ten years. A new EPC is not required each time there is a change of tenancy (or even when the property is sold), provided the earlier certificate is no more than ten years old. An owner, landlord or tenant will be free to commission a further EPC within that ten year period if they choose. If a voluntary EPC of this type is produced and lodged for a property which is already legally required to have a valid EPC, then this new EPC will become the current one for the property, replacing the earlier one.
14. Once an EPC reaches the ten year point and expires, there is no automatic requirement for a new one to be commissioned. A further EPC will only be required the next time a trigger point is reached, i.e. when the property is next sold, let to a new tenant, or modified in the manner described in paragraph 7 above.
15. There is also no requirement to produce a new EPC after carrying out energy efficiency improvement works to comply with the Regulations. However, for the purposes of the Regulations, it is recommended that landlords do commission a fresh, post installation EPC. A new EPC will reflect the improvements made, alongside any change to the energy efficiency rating of the property. A post installation EPC will, in all likelihood, be the easiest way for a landlord to demonstrate that they have complied with the Regulations²⁵.
16. EPCs relate to the property rather than to the owner or occupier and remain valid irrespective of the owner. Therefore an EPC obtained by a previous owner of the property will remain valid after a property is sold on, so long as it is less than ten years old. EPCs relate to the property rather than how it is used or occupied. Therefore an EPC obtained by a previous owner of the property will remain valid after a property is sold on, so long as it is less than ten years old.

²⁵ Alternatively, a landlord would be able to demonstrate compliance by providing evidence that any energy efficiency improvements made since the EPC was carried out, were assumed to deliver the necessary SAP (standard assessment procedure) points to improve the property to band E or above. So, for instance, on the EPC Energy Efficiency Rating, a property will be rated F or G if it has a SAP score of between 1 and 38; an E rating meanwhile will be awarded to a property with a SAP score of between 39 and 54. If a landlord did not wish to commission a fresh post-improvement EPC they would, at the very least, need to be able to demonstrate that the improvement, or improvements, they had made were sufficient to boost the SAP score to a minimum of 39. The recommendations report which accompanies a standard EPC sets out the rating a property is expected to achieve after installing individual recommended measures.

1.1.4.3 EPCs and multi-let buildings

17. In some cases, particularly for buildings which may contain multiple self-contained units which are let to different tenants, there may be multiple EPCs covering varying parts of the building. There may also be a separate EPC relating to the envelope of the building as a whole. These separate EPCs may provide varying energy efficiency ratings and, depending on circumstances, may have been produced at different times.
18. For the purposes of the Regulations, the minimum EPC requirement is linked to the “property” which is defined as a “building or part of a building”. In cases where the property being let is a discrete unit within a building (for example a room in a house share which is rented out on an individual basis), rather than the entire building, and where there is an EPC for the entire building, but also one for the discrete space being let, then the relevant EPC will be the one for the discrete space. Where there is only an EPC for the entire building (and where an EPC for the discrete space is not legally required) then that whole-building EPC will be the relevant EPC.
19. The landlord, then, should identify which EPC relates to the “property” that is subject to the relevant tenancy (or tenancies) and take action to improve the energy efficiency rating to the minimum standard, if necessary. A landlord should seek independent legal advice if they are in any doubt about which EPC is required.
20. As the relevant EPC will be the one related to the property being let, the landlord will only be required to install relevant measures which improve the energy performance of that property. In some cases, measures installed to improve the energy efficiency of a discrete space may also improve the energy efficiency of other spaces or units within a multi-let building. This is entirely acceptable.

1.1.4.4 Circumstances where an EPC may not be required

21. Guidance issued by the Department for Communities and Local Government (DCLG) notes that an EPC is not required where the landlord (or the seller, if relevant) can demonstrate that the building is any of the following:

-
- a building that is officially protected²⁶ as part of a designated environment or because of their special architectural or historic merit where compliance with certain minimum energy efficiency requirements would unacceptably alter their character or appearance,
 - a building used as places of worship and for religious activities,
 - a temporary building with a planned time of use of two years or less,
 - Industrial sites, workshops, non-residential agricultural buildings with low energy demand and non-residential agricultural buildings which are in use by a sector covered by a national sectorial agreement on energy performance,
 - stand-alone buildings with a total useful floor area of less than 50m² (i.e. buildings entirely detached from any other building).
 - HMO's (Houses in Multiple Occupation, for example these can be bedsits, hostels, shared houses etc) which have not been subject to a sale in the previous ten years, or which have not been let as a single rental in the past ten years.

Notes on EPC exemptions for domestic premises can be found [here](#)²⁷.

22. A building will also not need an EPC where the landlord can demonstrate that it is furnished holiday accommodation as defined by HMRC and the holiday-maker is not responsible for meeting the energy costs. Under certain circumstances buildings may also be exempt from the requirement to obtain an EPC where it may be demonstrated that they are to be demolished. This is subject to a number of strict conditions as set out in Regulation 8 of the *Energy Performance of Buildings (England and Wales) Regulations 2012*. Further information on the definitions of the building types set out above is provided at **Appendix C** of this guidance.

23. There are no other exceptions to the EPC obligations although there may be some transactions which do not qualify as a sale or a letting. If in doubt, legal advice should be sought. Please note that neither BEIS or DCLG are able to provide specific advice regarding whether any of these EPC exemptions apply to specific properties.

²⁶ Listed buildings on the Historic England (or Welsh equivalent) at: <https://historicengland.org.uk/listing/the-list/>

²⁷ www.gov.uk/buy-sell-your-home/energy-performance-certificates

1.1.4.5 Voluntary EPCs obtained for properties which are not legally required to have one

24. In situations where an owner or occupier of a building which is *not* legally required to have an EPC has obtained one voluntarily (i.e. a voluntary EPC for a property which has not been sold, let or modified within the past ten years), the landlord will not be required to comply with the minimum standard Regulations. A voluntary EPC may have been commissioned by a landlord who believed in error that one was required for their property, or it may be one commissioned by a property owner or occupant who simply wanted reliable advice on how to reduce energy waste.
25. A voluntary EPC may be registered on the official EPC database, but there is no requirement to do so. Where a voluntary EPC has been registered on the database it will supersede any earlier EPC that may have existed for the property, but official registration of a voluntary EPC will not, in itself, require the landlord to comply with the minimum standard.

Box Two

Listed Buildings and EPC Compliance

There is a common misunderstanding regarding listed buildings and whether they are exempt from the legal requirement to obtain an EPC. Listed properties, and buildings within a conservation area, will not necessarily be exempt from the requirement to have a valid EPC and it will be up to the owner of a listed building to understand whether or not their particular property is required to have an EPC. Where a listed privately rented domestic property, or a property within a conservation area, is required to have an EPC, that property will be within scope of the minimum energy efficiency standard and will need to be compliant (complying means either being at a minimum of EPC band E, or having a valid exemption registered for it). If a property is not legally required to have an EPC, then that property will not be covered by the minimum standard regulations, and no exemption will be necessary.

[Guidance](#) issued by the Department for Communities and Local Government (DCLG) on EPC requirements states:

[B]uildings protected as part of a designated environment or because of their special architectural or historical merit are exempt from the requirements to have an energy performance certificate insofar as compliance with minimum energy performance requirements would unacceptably alter their character or

appearance.

To comply with minimum energy performance requirements, many of the recommendations in an EPC report e.g. double glazing, new doors and windows, external wall insulation, and external boiler flues would likely result in unacceptable alterations in the majority of historic buildings. These can include buildings protected as part of a designated environment or because of their special architectural or historical merit (e.g. listed buildings or buildings within a conservation area). In these cases an EPC would not be required.

Building owners will need to take a view as to whether this will be the case for their buildings. If there is any doubt as to whether works would unacceptably alter the character or appearance of a building, building owners may wish to seek the advice of their local authority's conservation officer.

26. In all cases it is vital that a landlord understands whether their property is legally required to have an EPC at any time from 1 April 2018, and whether it is or is not exempt from having to comply with the minimum level of energy efficiency provisions. If there is any doubt about whether a property (or the building it is in) is legally required to have an EPC (or whether an EPC was legally required or voluntary), or about any of the other criteria described above, advice should be sought from the local trading standards team.

Box Three

EPC Requirements, Ten Year Validity and the Minimum Energy Efficiency Standard

The following scenarios are provided as illustrative examples, highlighting the ten year validity of an EPC and the interactions with the minimum standards:

Scenario one

A landlord intends to let a property on a new tenancy from April 2018: If the property already has a required EPC which is less than ten years old then this EPC can be used to let the property. If the EPC is more than ten years old, or if there is no EPC, then the landlord will be required to obtain a new EPC to market and let the property. If that EPC shows an energy efficiency rating of F or G then the landlord will need to carry out sufficient energy efficiency improvement works to improve the property to a minimum of E (or register a valid exemption if applicable) before issuing a tenancy agreement.

Scenario two

A property let on a ten year tenancy with an EPC F rating, where the EPC was obtained, as legally required, in 2015: On 1 April 2020 the landlord is continuing to let the property and will have to comply with the minimum energy efficiency provisions because there is a valid EPC which the landlord was required to obtain (the EPC will continue to be valid until 2025).

Scenario three

A property let on a twenty year tenancy with an F rated EPC obtained in 2009: On 1 April 2020 the landlord is continuing to let the property but in this scenario will not be captured by the minimum energy efficiency provisions because the EPC will have expired in 2019, and there is no legal requirement on the landlord to obtain a new one at that point (because the tenancy is ongoing). The landlord will only be required to obtain a new EPC (which will trigger a need to comply with the minimum energy efficiency provisions) if they intend to sell or re-let the property (to the current tenant, or to a new tenant) once the current tenancy expires, or if they (or their tenant) modify the property in a manner which would require a new EPC.

Note: Landlords will wish to be aware that the methodologies underpinning EPC calculations are updated periodically (the methodology is called the Reduced Data Standard Assessment Procedure, or RdSAP). This means that, depending on the characteristics of a particular building, or unit within a building, the EPC band may change irrespective of any improvement works undertaken. Therefore, even if an EPC for a property is current (i.e. less than ten years old), the landlord may wish to obtain advice as to the rating that would apply to the building if an EPC were commissioned, before deciding on a particular course of action in relation to compliance with the Regulations.

RdSAP is to be revised by November 2017, to encompass the latest developments in energy efficiency technology and other developments in the sector.

1.2 When do the minimum level of energy efficiency provisions apply?

1.2.1 Prohibition on letting sub-standard domestic property (Regulation 23)

27. The domestic minimum standard will be introduced in a phased manner, with triggers for new tenancies signed from 1 April 2018 onwards, and a backstop

date for *all* tenancies from 1 April 2020. This means that, from 1 April 2018 landlords must not let any sub-standard domestic property to **new tenants**, or renew or extend an existing tenancy agreement with **existing tenants**, unless either:

- a. the landlord has made *all* the relevant energy efficiency improvements that can be made to the property (or that there are none that can be made) and the property's energy performance indicator is still below an EPC E, and this exception has been registered on the national PRS Exemptions Register; or
- b. no improvements have been made but a valid exemption applies which has been registered on the Exemptions Register.

28. Then, from 1 April 2020, landlords must not **continue to let** a sub-standard domestic property, even to existing tenants (where there has been no tenancy renewal, extension or indeed new tenancy), unless:

- a. *all* relevant energy efficiency improvements have been made (or that there are none that can be made), the EPC remains below E, and the exception has been registered on the Exemptions Register; or
- b. no improvements have been made but a valid exemption applies and has been registered on the Exemptions Register.

29. Therefore, from 1 April 2018, where a landlord intends to let a domestic property (or from 1 April 2020 continue to let such a property) they will need to check whether their property is covered by the minimum level of energy efficiency provisions (as discussed above), and, if so, ensure that the EPC rating is at E or above (as discussed at section 1.3 below). If the EPC rating is below E, they must either take appropriate steps to improve the rating to meet the minimum standard (see chapter two for more details), or register an exemption if applicable (see chapters four and five for details on exemptions).

1.2.2 Subletting of domestic property

30. The responsibility not to let a domestic property which is below the minimum EPC rating of E applies to any person who lets, or proposes to let, a domestic private rented property. If the original tenancy allows a tenant to sublet the property, and that tenant proposes to enter into a sub-tenancy as a new landlord to a sub-tenant, then that original tenant/new landlord should not let the property until the minimum standard is reached, or until a valid exemption has been registered.

31. In the case of subletting, an original tenant/new landlord may (subject to the terms of their tenancy) need to obtain consent from their superior landlord before making any improvements which may be required to meet the minimum standard (the provisions in Regulation (31(1)(b)) for an exemption where third party consents are refused - such as superior landlord consent – mean that the ability to sublet will not be affected if superior landlord consent cannot be obtained). It should be noted that after April 2020, there is a continuing obligation on *all* domestic landlords to ensure the requirements of the regulations are met (even where there has been no change or renewal of a tenancy), so the superior landlord should have already taken steps to improve a property to E before a post April 2020 subletting occurs.

Box Four

Obtaining landlord consent

In situations where a tenant is looking to improve the energy efficiency of a property in preparation for renting that property to a sub-tenant (or for any other reason), the tenant may be required to obtain landlord consent before making the improvements.

The tenant should request consent from their landlord in the way specified in their tenancy agreement. If the landlord consents, then the work will be able to proceed, subject to any conditions which the landlord may have placed on the tenant. However, if the landlord withholds consent (or fails to respond to the request), then the tenant may have recourse to the Tenants' Energy Efficiency Improvements provisions (part two of the *Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015*). Under these provisions tenants can request consent from their landlord to install energy efficiency improvements in the property they rent, and the landlord may not unreasonably refuse consent. These rights took effect from April 2016, and are subject to the tenant securing suitable funding for the requested improvements.

Guidance on the Tenant's Energy Efficiency Improvements provisions can be found [here](#)²⁸.

²⁸ www.gov.uk/government/publications/tenants-energy-efficiency-improvements-provisions-guidance-for-domestic-landlords-and-tenants

-
32. The extent to which a tenant is permitted to sublet a property will necessarily depend on the provisions of their original tenancy. Even where subletting is permitted, the tenancy may make specific provision for which party would be liable for improvement costs in any given situation. For this reason, superior landlords, sub-landlords and tenants are advised to consult their tenancy, and seek their own advice, when considering their rights and responsibilities under their tenancy.
33. Readers should also note that there are clear differences between subletting (where a tenant may become a landlord for the purposes of the Regulations), and arrangements such as assignment. In situations which do not result in the tenant becoming a new landlord for the purposes of the Regulations, any requirement to meet the minimum standard will remain with the original landlord. Again, appropriate legal advice should be sought if there is any doubt.

Example Subletting Scenario

The following scenarios are provided as illustrative examples, highlighting the way the minimum standards will apply to sub-letting scenarios pre and post April 2020.

In both scenarios the original tenant is the tenant of an F rated property where the tenancy was entered into before April 2018.

Scenario one – pre-backstop

If the original tenant intends to sublet the property in 2019, liability for compliance with the minimum standard will sit with that tenant (who will now be a landlord) as that tenant will be the landlord for the tenancy which triggered the need to comply with the Minimum Standard.

Scenario two – post backstop

If the original tenant intends to sublet the property after 1 April 2020 (after the backstop date has come into force), the original landlord should already have taken steps to either improve the property to a minimum of E, or register an exemption, if one applies. If this has not taken place then the original tenant will be unable to lawfully sublet the property until steps have been taken (either by the landlord, or by the original tenant on the landlord's behalf) to rectify the situation.

If the landlord had not improved the property to E (or higher) by 1 April 2020 they would be in breach of the regulations for continuing to let a 'substandard' property and may be subject to enforcement proceedings (see chapter six for more details on enforcement).

1.3. Mixed use properties and tenancy types

34. There will be situations where a landlord will be a landlord of a property which includes a mix of residential and commercial units, and a mix of commercial and residential tenants. Examples will range from a building with a shop on the ground floor and one or two flats on the upper floors, to larger buildings with a number of commercial units on the ground floor and multiple residential flats on the upper floors.
35. The Regulations apply to rented properties within such mixed use buildings, although the triggers may be different depending on whether particular units are domestic or non-domestic. In many cases the distinction between the commercial and the residential units will be clear; however there may be instances where a mixed use property is let as a single unit. Where such a property falls below an EPC rating of E, the landlord will need to examine the tenancy to determine whether the property is domestic or non-domestic for the purposes of the Regulations, and whether it is required to comply with the minimum standard, and if so, by which trigger date²⁹.
36. Where a mixed use property is rented on an assured tenancy (including an assured shorthold tenancy) for the purposes of the *Housing Act 1988*, a regulated tenancy under the *Rent Act 1977*, or a domestic agricultural tenancy under the *Energy Efficiency (Domestic Private Rented Property) Order 2015*, then it is likely to be considered a domestic property, and should be treated accordingly.

²⁹ Where a landlord determines that a property is not required to comply with the minimum standard then they will not be required to take any further action. However, enforcement authorities have powers to issue landlords with compliance notice requesting information if they suspect that an F or G rated property is within the scope of the minimum standard. Therefore landlords are advised to retain copies of any documentation they used to reach their decision so that, if they are issued with a compliance notice, they can demonstrate to the enforcement authority that their property is outside of the scope of the minimum standard and is not required to meet the E standard. See Chapter six for further information on compliance notices.

37. If a property is let under a tenancy but is *not* considered a “dwelling”, then it will be considered a non-domestic building for the purposes of the Regulations³⁰, and will need to comply with the minimum standards in accordance with the non-domestic trigger dates. In all cases it will be for the landlord to check their tenancy arrangements to understand what type of tenancy is in place, and they should seek appropriate legal advice if there is any uncertainty as to whether a property falls within the domestic or non-domestic category³¹. Landlords may also wish to discuss any concerns with the relevant enforcement authority before determining any course of action.

Box Five

The Housing Health and Safety Rating System (HHSRS)

While not directly related to the minimum level of energy efficiency, landlords will wish to be aware of the Housing Health and Safety Rating System (HHSRS). HHSRS is a method of assessing housing conditions (both rented and owner occupied) established by the *Housing Act 2004*. It employs a risk assessment approach to enable risks from hazards to health and safety in dwellings to be minimised. Hazards include those relating to dampness and excess heat/cold.

The intention of the *Housing Act 2004* is to ensure that owners maintain their properties in a safe and ‘healthy’ state (i.e. free from hazards that may affect the occupier’s health and/or safety). If a local authority discovers category 1 of hazards in a home, it has a duty to take the most appropriate action. It may also take action for less serious category 2 hazards where this is considered the most satisfactory course of action. The HHSRS does not deal with a property being inefficient from an energy point of view; rather, action can be taken if there is excess cold or damp at the property, for example, but these two hazards can overlap in a situation where a property needs improvement from an energy efficiency perspective.

Typically, local authorities will aim to deal with problems informally at first,

³⁰ A “dwelling” is defined as a “building or part of a building occupied or intended to be occupied as a separate dwelling”. As defined in Regulation 19(1), section 42(1)(a) of the *Energy Act 2011*.

³¹ Guidance to landlords of non-domestic property on complying with the non-domestic minimum standard can be found at: www.gov.uk/government/publications/the-non-domestic-private-rented-property-minimum-standard-landlord-guidance

but if this is unsuccessful the council may serve an improvement notice on a landlord requiring them to carry out improvements to the property; for example, by installing central heating and/or insulation to improve cold properties. Where an HHSRS notice is served, the landlord will have to meet the cost of the required work.

While some landlords of F and G rated rental properties may be able to claim valid exemptions from the requirement to improve a property to EPC E, this exemption will not excuse them from the existing obligation to maintain that property in a safe and 'healthy' state. Failure to do so may result in enforcement action regardless of the fact that the property may be exempt from the minimum level of energy efficiency.

Frequently Asked Questions Relevant to Chapter One

Q: When do the minimum standard regulations come into force?

A: The regulations come into effect for *new* domestic tenancy agreements from the 1 April 2018, and will apply to *all* tenancies (including long term tenancies) from 1 April 2020.

Q: What types of tenancies are covered by these Regulations?

A: The tenancy types are:

- An assured tenancy (including an assured short hold tenancy) defined in the *Housing Act 1988*.
- A regulated tenancy defined in the *Rent Act 1977*;
- An agricultural tenancy as set out in the *Energy Efficiency (Domestic Private Rented Property) Order 2015* (see paragraph 1.1.3 for more details).

Q: Are these Regulations UK wide?

A These Regulations apply to properties rented in England and Wales only. They do not apply to rental properties situated in Scotland or Northern Ireland.

Q: Do *all* privately rented domestic properties need to be at EPC E by 1 April 2018?

A: No. All domestic private rental properties must be at a minimum of EPC band E by 1 April 2020 (or have a valid exemption registered for them). Between 1 April 2018 and 1 April 2020 properties will only need to meet the standard (or have a valid exemption registered) at the point at which a new tenancy is entered into. Where no new tenancy has been entered into, a private rental property may be lawfully let below EPC band E up until 1 April 2020.

Q: My property is already above EPC F or G; do I need to do anything?

A: No. If a private rental home is already above EPC F or G then no action is

required by the landlord.

Q: What is an EPC and when is it required?

A: Energy Performance Certificates (EPCs) are needed whenever an eligible property is constructed, sold or rented out. Property owners must provide an EPC for potential buyers or tenants before marketing a property to sell or rent. This is a requirement of the *Energy Performance of Buildings (England and Wales) Regulations 2012*. In addition a landlord will be required to obtain an EPC after installing certain improvements before they let the property. This is a requirement of the *Building Regulations 2010*.

An EPC contains:

- information about a property's energy use and typical energy costs
- recommendations about how to reduce energy use and save money

An EPC for a domestic building gives the property an energy efficiency rating from A (most efficient) to G (least efficient) and is valid for ten years. The EPC relates to the property rather than to the owner, therefore an EPC obtained by a previous owner of the property will remain valid even after a property is sold on, so long as it is less than ten years old.

Q: How do I arrange an assessment in order to determine my property's EPC rating and (if necessary what improvement works are needed to bring the Minimum Standard) who would perform the assessment?

A: You can search for an accredited assessor to undertake a domestic EPC assessment [here](https://www.epcregister.com/searchAssessor.html)³². Since 2007 all rental properties (with few exceptions) have been required to have a valid EPC before being let on a new tenancy. Therefore you should already have an EPC for your rental property, and to not have one is unlawful. If you do not have an EPC for the property that you rent, you should make arrangements to obtain one immediately.

³² <https://www.epcregister.com/searchAssessor.html>

Q: How can I find out the current EPC rating for my property is?

A: If you don't have your certificate to hand then you can search for a PDF copy using the property postcode [here](#)³³.

Q: Are Houses in Multiple Occupation (HMOs) excluded from the PRS Regulations?

A: HMOs are not excluded from the Regulations. The Regulations apply to *all* privately rented properties that are legally required to have an EPC, and where rooms are let on one of the qualifying types (most likely assured tenancies). An HMO will be in scope where it meets these criteria.

However, individual rooms within HMOs are not required to have their own EPC, so a property which is an HMO will only have an EPC if one is required for the property as a whole (typically this will be if the property has been build, sold or rented as a single unit at any time in the past 10 years). If an HMO is legally required to have an EPC, and if it is let on one of the qualifying tenancy types, then it will be required to comply with the minimum level of energy efficiency.

Q: I am a landlord who lets holiday cottages throughout the year. I do not know the basis on which these particular properties are let; am I still required to comply with the Minimum Standard Regulations?

A: Holiday cottages are typically let under a licence to occupy, rather than a tenancy. This type of rental property is, therefore, generally outside of the scope of the Regulations and not required to meet the Minimum Standard. If there are any concerns about whether a property is occupied under a licence or a tenancy, and whether the landlord is subject to the Regulations, legal advice should be sought.

Q: How long is an EPC valid for and when or what triggers reassessment?

A: Once produced, an EPC is valid for ten years. A landlord can chose to commission a new EPC at any time for any reason, but this would be entirely

³³ <https://www.epcregister.com/reportSearchAddressTerms.html?redirect=reportSearchAddressByPostcode>

voluntary. The only time a new EPC is legally required for a property is if the most recent certificate is more than ten years old, and the property is to be sold or rented again.

Q: I am a landlord with multiple properties with F or G EPC ratings. Is there any flexibility that would be shown to me due to the scale of works that I need to commission. Is there limit on the number of properties that I would need to improve to EPC E?

A: No, all properties in scope of the Regulations will need to comply and there is no limit on the number of properties a multi-property owning landlord would be required to ensure are compliant. The Regulations are clear that landlords only need to undertake improvements which can be made without incurring a cost. So if suitable 'no cost' finance cannot be obtained for a particular property, the landlord would need to register an exemption for that property rather than improve it to E. But, assuming that the no cost principle can be satisfied, there is no limit to the number of substandard properties a landlord is required to improve.

However, landlords should note that between 1 April 2018 and 1 April 2020, properties only need to be improved to meet the standard when a new tenancy is signed with a new or existing tenant. If a new tenancy has not been signed in that period then a property may still be lawfully let below EPC E. Therefore landlords with multiple properties would not necessarily need to improve all of their substandard properties at the same time, and can phase improvement work over this two year period as and when new tenancies are signed.

Q: Are there any types of domestic rental property which are not covered by the Regulations

A: The Regulations provisions apply to *all* domestic privately rented properties that are legally required to have an EPC and which are let on one of the qualifying tenancy types. Listed buildings and buildings within a conservation area will not be required to meet the standards outlined in the Regulations if, for the purposes of the *Building Regulations 2010* (as amended) and *Energy Performance of Buildings Regulations 2012*, they are not required to obtain an EPC. HMO's which have not been required to have an EPC (for example, if it has not been bought/sold in the previous ten years, or if it has not previously been

rented out as a single property) will not be covered by the regulations.

Q: What are the average energy bills for domestic properties across different EPC bands?

A: The average annual energy bills by EPC band are as follows:

EPC Band	Average Annual Energy Bills, SAP-based (2014)
A/B	£750
C	£1,060
D	£1,330
E	£1,710
F	£2,180
G	£2,860

Chapter 2: Minimum Standards Improvements and Funding

The following chapter sets out information to help a landlord identify the improvements which can be made to an EPC F or G rated domestic property to allow it to meet the minimum standard, and the funding options open to them.

The chapter will first discuss the steps a landlord needs to take to identify 'relevant' improvements they can make to their property. As you will see, in the first instance landlord can identify potential improvements using the current EPC report for the property. There are also additional options available as set out below. This chapter will also discuss sources of funding to assist landlords in undertaking their chosen improvement measures.

2.1 Relevant energy efficiency improvements

2.1.1 Relevant energy efficiency improvements and recommendations reports (Regulation 24)

38. For the purposes of the minimum standard regulations, 'relevant energy efficiency improvements' which a landlord may choose to install to enable a sub-standard property to reach an EPC rating of E (either a single measure, or a combination of measures as appropriate) are any energy efficiency improvements recommended for the property through any of the following:

- a relevant recommendations report³⁴ (including the recommendations report accompanying a valid EPC – see box six below),
- a Green Deal advice report, or
- a report prepared by a surveyor³⁵.

A list of the energy efficiency measures which may be recommended for a property on an EPC or as part of a Green Deal advice report are set out at **Appendix D**.

Box Six

Example Measures Recommendations Page from EPC

Recommendations

The measures below will improve the energy performance of your dwelling. The performance ratings after improvements listed below are cumulative; that is, they assume the improvements have been installed in the order that they appear in the table. Further information about the recommended measures and other simple actions you could take today to save money is available at www.gov.uk/energy-grants-calculator. Before installing measures, you should make sure you have secured the appropriate permissions, where necessary. Such permissions might include permission from your landlord (if you are a tenant) or approval under Building Regulations for certain types of work.

Measures with a green tick  may be supported through the Green Deal finance. If you want to take up measures with an orange tick  through Green Deal finance, be aware you may need to contribute some payment up-front.

Recommended measures	Indicative cost	Typical savings per year	Rating after improvement	Green Deal finance
Internal or external wall insulation	£4,000 - £14,000	£ 361		
Floor Insulation	£800 - £1,200	£ 64		
Low energy lighting for all fixed outlets	£30	£ 20		
Solar water heating	£4,000 - £6,000	£ 44		
Replace single glazed windows with low-E double glazed windows	£3,300 - £6,500	£ 118		
Solar photovoltaic panels, 2.5 kWp	£9,000 - £14,000	£ 258		

Opportunity to benefit from a Green Deal on this property

Green Deal Finance allows you to pay for some of the cost of your improvements in instalments under a Green Deal Plan (note that this is a credit agreement, but with instalments being added to the electricity bill for the property). The availability of a Green Deal Plan will depend upon your financial circumstances. There is a limit to how much Green Deal Finance can be used, which is determined by how much energy the improvements are estimated to **save** for a 'typical household'.

You may be able to obtain support towards repairs or replacements of heating systems and/or basic insulation measures, if you are in receipt of qualifying benefits or tax credits. To learn more about this scheme and the rules about eligibility, call the Energy Saving Advice Service on **0300 123 1234** for England and Wales.

³⁴ 'Recommendations report' has the meaning given in Part 1, section 4 (1) of *The Energy Performance of Buildings (England and Wales) Regulations 2012*: 'recommendations made by an energy assessor for the cost-effective improvement of the energy performance of a building or building unit'.

³⁵ A qualified surveyor is one who is on the Royal Institution of Chartered Surveyors' register of valuers. The register can be accessed via RICS website at: www.ricsfirms.com.

2.1.2 Relevant energy efficiency improvements and funding (Regulation 24)

Live Consultation Alert. Please be aware: on 19 December 2017 Government launched a consultation exercise on proposals to amend the domestic regulations. A key proposal in this consultation is an amendment to the funding arrangements for the domestic minimum standard described in the following section of the guidance.

The consultation proposal involves the removal of the 'no cost to the landlord' principle described below, and the introduction of a 'landlord funding contribution' component which would take effect where a landlord is unable to obtain suitable third party funding. To protect landlords from excessive costs, the consultation proposes the introduction of a cost cap: a limit on the amount any landlord would need to invest in an individual property.

The consultation document can be accessed [here](#)³⁶. Responses to the consultation must be submitted by 13 March 2018.

39. While any of the reports described above will set out one or more measures which may be technically suitable for a property, an energy efficiency measure recommended for a property will only be 'relevant' for the purposes of the Regulations, where funding is available to cover the full cost of purchasing and installing the improvement(s) from one or more of the following sources:

- A Green Deal Plan (see paragraphs 41 - 45 below)
- Energy Company Obligation or similar scheme designed according to section 33BC or 33BD of the *Gas Act 1986* or section 41A or 41B of the *Electricity Act 1989* (see paragraphs 46 - 48 below).
- Funding provided by central government or local authority or third party at no cost to the landlord (see paragraphs 49 - 50 below).
- **A combination of any of the above funding.**

40. A landlord of an F or G rated property will be expected to install all energy

³⁶ www.gov.uk/government/consultations/domestic-private-rented-sector-minimum-level-of-energy-efficiency

efficiency improvements required to reach an EPC E, as described in section 2.1, where funding is available to cover the cost.

41. Where funding is not available to fully cover the cost of making a recommended improvement then the landlord will not be required to make that improvement to the property. Please note however that, where a property cannot be improved to EPC E because recommended measures cannot be installed without cost, the landlord will still need to take steps to register an exemption on the national PRS Exemptions Register. More information on registering exemptions is set out in chapter five.

Box Seven

A note on 'relevant energy efficiency improvements'

While EPC reports and the other recommendations reports described above provide guidance on the types of measures which may be suitable for installation in a particular property, it is not the objective of the Regulations to require landlords to install particular energy efficiency technologies. The Regulations introduce the concept of 'relevant energy efficiency improvements' (as defined above), however, a landlord remains free to make any improvements they wish to their property to enable that property to meet the minimum standard. Therefore a landlord may install any measures they choose (even if not recommended for the property via an energy efficiency recommendations report), so long as they are confident that those measures will improve their sub-standard property to a minimum of EPC E.

However, should a landlord choose to make improvements which are not 'relevant energy efficiency improvements' as defined by the Regulations, and those improvements fail to raise the property to a minimum of EPC band E, the landlord will not then be able to let the property, or to register an exemption on the basis that they have made improvements to the property but it remains below E. If this happens the landlord will need to make further improvements to the property to try and improve the EPC rating to a minimum of E if they wish to let it.

Any landlord who has made improvements to a property, but not enough to raise that property to EPC E, will only be able to register a regulation 25(1)(a) exception (the exemption available when all relevant improvements have been made and the property remains below an E) if they have first installed *all*

'relevant energy efficiency improvements'. See section 4.1.1 in chapter four for more information on regulation 25(1)(a) exceptions.

The Green Deal and Pay As You Save Finance

42. The Green Deal is a finance mechanism which enables homeowners and households to take out loans to pay for energy efficiency improvements, with repayments made through the energy bill. A list of the energy efficiency measures for which Green Deal finance may be available is set out at **Appendix D** of this guidance.
43. Repayments for a Green Deal loan are made on a "Pay As You Save" (PAYS) basis: after the improvement has been made, the household begins to save energy, ensuring their energy bills are less than they would have been without the improvement, and these savings are used to repay the loan.
44. The Green Deal finance mechanism includes a principle called the "Golden Rule". This states that the first year's repayments must not exceed the estimated first year saving, and the overall repayment period must not exceed the lifetime of the measures installed.
45. In the context of the Regulations, a Green Deal finance plan can satisfy the 'no cost to the landlord' principle where the improvement measure(s) is fully fundable and the electricity bills at the rental property (with a Green Deal charge attached) are paid by the tenant rather than the landlord. A tenant in turn, while paying the Green Deal charge for as long as they paid the electricity bill at the property, should have been able to enjoy energy bill savings equal to or greater than the charge.

Box Eight

Green Deal Finance Plans

Green Deal Finance Plan is the term for the arrangement established by the *Energy Act 2011* whereby specified energy efficiency improvements can be installed in a property and the cost of the improvements are recovered as a debt by the energy supplier who supplies the property with electricity.

Green Deal Plans have a number of key features:

- there are three parts – a Green Deal consumer credit agreement, an installation agreement and a guarantee backed by insurance;
- the amount that can be financed by the plan is limited by the Golden Rule (see paragraph 43 above);
- the plan remains with the property and, provided disclosure has been made, is the responsibility of whoever the bill payer is from time to time;
- repayments for the plan are made to the energy supplier.

46. Landlords can apply for a Green Deal loan by contacting their local Green Deal Provider (details can be found on the Green Deal Finance Company website www.gdfc.co.uk) or through the enquiry form on the same Green Deal Finance Company website.

Green Deal Finance Case Study

The property in this case study is a private rented semi-detached two bedroom house built between 1900 and 1929:

25 May 2017 RRN:		Energy Performance Certificate		
Recommendations				
<p>The measures below will improve the energy performance of your dwelling. The performance ratings after improvements listed below are cumulative; that is, they assume the improvements have been installed in the order that they appear in the table. Further information about the recommended measures and other simple actions you could take today to save money is available at www.gov.uk/energy-grants-calculator. Before installing measures, you should make sure you have secured the appropriate permissions, where necessary. Such permissions might include permission from your landlord (if you are a tenant) or approval under Building Regulations for certain types of work.</p> <p>Measures with a green tick  may be supported through the Green Deal finance. If you want to take up measures with an orange tick  through Green Deal finance, be aware you may need to contribute some payment up-front.</p>				
Recommended measures	Indicative cost	Typical savings per year	Rating after improvement	Green Deal finance
Flat roof or sloping ceiling insulation	£850 - £1,500	£ 75		
Room-in-roof insulation	£1,500 - £2,700	£ 246		
Internal or external wall insulation	£4,000 - £14,000	£ 243		
Floor insulation (suspended floor)	£800 - £1,200	£ 78		
Low energy lighting for all fixed outlets	£60	£ 45		
Hot water cylinder thermostat	£200 - £400	£ 26		
Heating controls (room thermostat and TRVs)	£350 - £450	£ 169		
Replace boiler with new condensing boiler	£2,200 - £3,000	£ 211		
Solar water heating	£4,000 - £6,000	£ 43		
Solar photovoltaic panels, 2.5 kWp	£5,000 - £8,000	£ 278		

The key recommendations to improve the property are noted on the EPC image above.

The household's estimated annual cost savings for replacing the boiler were £211 if combined with a number of other recommended measures such as insulation, or £321 if installed as a standalone measure. Typical annual savings based on the Occupancy Assessment, for boiler replacement alone, were £451.

The landlord decided to proceed with replacing the property's boiler and installing new heating controls. Total cost to install both measures was £3,200 which was fully funded under a Green Deal Finance Plan.

The repayment cost is £1.20 per day paid through the tenant's electricity bill with a total annual cost of £438 paid over the lifetime of the measure which is 12 years.

This results in a cost saving of £13 annually for the tenant on their energy bills while the landlord has upgraded their property EPC rating from F(30) to E(49).

Energy Company Obligation (ECO): Help to Heat

47. Alongside Green Deal finance, ECO: Help to Heat is another ‘mechanism’ for delivering improvements to meet the minimum standards Regulations. ECO is a requirement that the Government places on energy suppliers to reduce the UK’s energy consumption and support those living in fuel poverty. It does this by requiring energy suppliers to provide households (including households in rented accommodation) with energy efficiency improvements. Obligated energy suppliers have carbon savings and heating bill savings targets which they are legally required to meet. The current obligation will run until September 2018.
48. Properties in the domestic private rented sector will be eligible for energy efficiency measures under the ECO: Help to Heat scheme, both under the carbon saving obligation (CERO) element and the Affordable Warmth element. Under Affordable Warmth, properties will be eligible if they are occupied by households who meet the Affordable Warmth criteria. This includes households in receipt of one of a list of qualifying means-tested benefits (including tax credits or universal credit below an income threshold). Under the new ECO Help to Heat Flexible Eligibility, suppliers also have the option of delivering up to 10% of their Affordable Warmth obligation to households identified by local authorities as fuel poor or low income and vulnerable to the effects of living in a cold home.
49. The Government plans to consult on a long-term new obligation in early 2018. Landlords can find out more about ECO and Affordable Warmth [here](#)³⁷. You can also find out whether a property you rent may be able to benefit from ECO funding by contacting the Energy Savings Advice Service on 0300 123 1234, Where appropriate you may need to ask your tenant to contact ESAS themselves.

Box Nine

ECO Flexible Eligibility

Under the ‘flexible eligibility’ element of ECO: Help to Heat, energy suppliers will be able to deliver up to 10% of their Affordable Warmth obligation in properties identified by local authorities as fuel poor or low income and vulnerable to the effects of living in a cold home.

³⁷ www.gov.uk/energy-company-obligation

As part of their enforcement duties under the minimum standards regulations, therefore, local authorities (LAs) may have an opportunity to identify eligible E, F and G rated private rented properties, and refer them onto energy companies as eligible under ECO: Help to Heat. This may allow landlords of substandard properties to access supplier obligation support to meet their required obligations under the Regulations. It is important to note however that a referral by the LA will not guarantee that a measure will be installed, as this will be ultimately the decision of an energy supplier, or their intermediary.

Additional 'no-cost' funding options

50. Alongside Green Deal funding and the Energy Company Obligation, the Regulations allow for improvements to be made using no cost funding available from central or local government, or indeed from any third party, so long as there is no cost to the landlord. Funding from these sources is likely to be less predictable, and more localised than Green Deal or ECO funding. Many local authorities will run energy efficiency grant schemes from time to time with varying qualifying conditions, and funding available in one area may not be available in another area, or at the same level.
51. Due to the varied nature and availability of local funding opportunities, landlords will need to investigate the availability of funding for the area where their property or properties are located. For independent advice on availability of funding for making energy efficiency improvements, landlords should contact the Energy Saving Advice Service on 0300 123 1234. Where appropriate you may need to ask your tenant to contact ESAS themselves.

As noted at paragraph 37, 'relevant energy efficiency improvements' are those which can be funded at no cost to the landlord via either Green Deal finance, ECO, funding provided by central government, a local authority or a third party, or any combination of these funding sources. Therefore, if funding from one source is not available at a sufficient level to fully cover the cost of an improvement, or improvements (for instance because the costs exceed what can be borrowed within the Green Deal golden rule), the landlord should investigate the availability of further suitable funding to blend with what they have already secured.

Frequently Asked Questions Relevant to Chapter Two

Q: Are there any recommended or required materials which should be used to undertake the improvement works?

A: There are no specified materials or improvement measures; a landlord is free to do whatever they like with their property so long as the EPC rating can be raised to meet the minimum energy efficiency standard. The most assessable ready source of advice would be the recommended measures section on EPC for the property, but landlords can seek advice from other suitably qualified experts if they wish.

Q: Do I have to spend a certain amount of money in improving the energy efficiency of my property?

A: A Landlord is only required to make improvements to an F or G rated property to meet the minimum standard if they can do so at no cost to themselves. No cost funding can come from a range of sources, primarily (but not limited to):

- Green Deal Finance,
- ECO help to heat funding,
- Local Authorities home energy efficiency grants

Q: Where can I find information on obtaining finance at 'no cost' to fund improvement works?

A: For general advice and assistance on energy efficiency funding, landlords can contact the Energy Savings Advice Service on 0300 123 1234. For scheme specific information landlords should:

- Green Deal Finance: search for a local Green Deal Provider (details can be found on the Green Deal Finance Company website www.gdfc.co.uk) or through the enquiry form on the GDFC website;
- ECO help to heat programme: contact the Energy Savings Advice Service on 0300 123 1234, (where appropriate the landlord may need to ask their tenant to contact ESAS themselves);

-
- Local Authority funding: contact their local Authorities for information on any home energy efficiency grants available.

Green Deal

Q: How does Green Deal work in the rental sector?

A: Using a Green Deal loan, a landlord can add value to their property with minimum financial outlay. Energy efficiency improvements made will make the property more attractive for tenants to live in and may increase the value of the property itself.

Tenants will repay the Green Deal Loan through their electricity bills. Tenants then benefit from a warmer, more efficient, home and are given protection against rising energy costs through the efficiency of the products installed.

Under the “Golden Rule” the cost to repay the loan should be covered by the energy savings following the installation. This means that if the tenants are typical energy users, their electricity bill is estimated not to increase.

The plan is linked to the property, rather than the property owner or occupant. When the tenant moves out and stops paying the electricity bill they will stop paying the Green Deal charge, and payment will be taken on by the next bill payer and so on (a landlord will be required to disclose the existence of the finance plan to prospective incoming tenants). If you decide to sell the property in the future, the plan remains with the property it is benefitting. However you must inform the new property owner that there is a Green Deal plan on the property.

Q: Is there a cap on the amount of Green Deal finance available?

A: No, there is no cap on the amount of finance a customer can receive through Green Deal, but the total amount available will be limited by the Golden Rule.

Q: Can customers that take out a Green Deal Plan still switch energy supplier?

A: Yes, provided the new supplier is a Green Deal approved supplier. All the big energy companies and many of the smaller ones are approved.

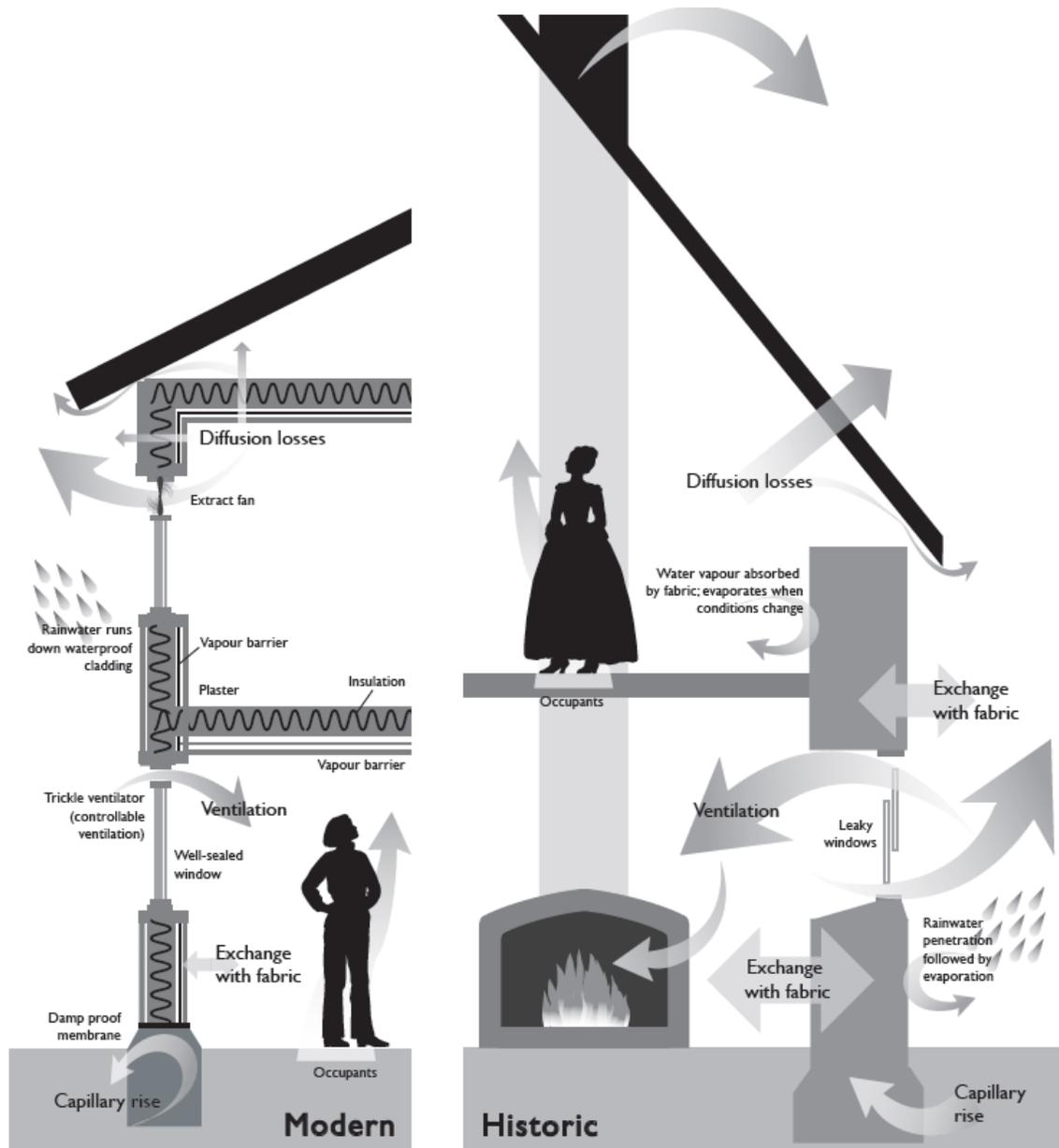
Chapter 3: Technical Advice for Landlords on making Energy Efficiency Improvements

Energy efficiency improvements should always be considered with an understanding of how the building was designed to perform, as well as how the building is likely to be used by occupants. Many of the principles of building performance and building use are generally applicable to all homes; however, some of these will be particularly relevant to Privately Rented Homes. This chapter highlights several technical issues that Landlords may wish to raise when seeking expert advice on how to improve their properties.

As discussed in the previous chapter, when identifying appropriate energy efficiency improvement measures for a property, the first port of call for a landlord should be the recommendations page of the current EPC certificate for that property.

52. Many buildings hold historic value and special care must be taken in retrofitting them to a 21st century standards of performance while respecting these heritage issues. In order to make an informed decision about building improvements that suitably balances performance and heritage it is important to first understand how the building was designed to operate. A significant portion of Privately Rented Homes can be described as ‘traditional buildings’, meaning that they were built prior to the widespread use of modern building techniques. Traditional buildings are typically built before 1920 and likely have solid walls of brick or stone. Modern buildings include barriers that make them impermeable to moisture. Excess moisture from laundry, showers, and

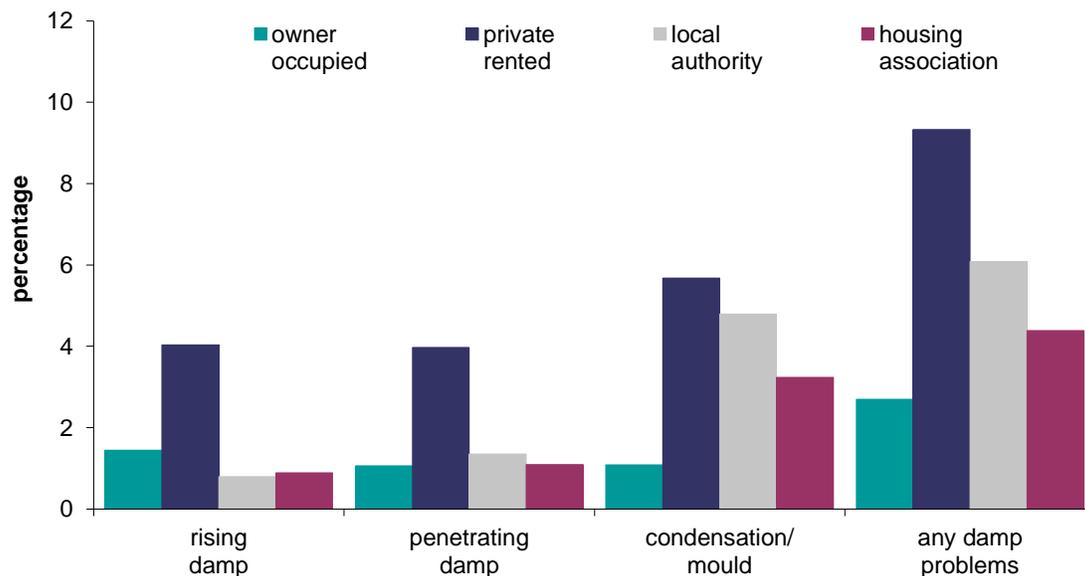
other occupant activities is typically controlled through ventilation. In traditional buildings, moisture is in part controlled by allowing it to evaporate through the walls themselves. This is sometimes called a 'breathing building'.



From Historic England: Energy Efficiency and Historic Buildings (digital image by Robyn Pender)

53. If a building was designed to breathe, then changing the external envelope by adding energy efficiency improvements such as wall insulation can inadvertently trap moisture in the building as well. Unless efforts are made to control the relative humidity there is a risk of moisture building up, which could cause mould, adverse health impacts, and potentially damage the building as well. In some cases, it is possible for moisture and mould to build up within a wall, which can go unnoticed for long periods of time.

54. Incidents of mould and damp are far more common among the Privately Rented Sector than in the general housing stock. In order to protect the health and safety of their tenants, as well as their buildings, Landlords have a role in both choosing energy efficiency improvements that are suitable for their buildings, and communicating these improvements so that their buildings can be used by their tenants without adverse consequences.



(DCLG English Housing Survey 2015 Figure 2.8)

55. Warm air can hold more dissolved moisture than colder air. When warmer air absorbs moisture then cools down, excess moisture forms as condensation. There are a number of ways in which this can occur, including changes to the heating system throughout the day, inconsistent temperatures between different rooms in the home, or local cold spots such as corners or thermal bridges. The heating system and ventilation controls can help both maintain

comfort and limit the risk of moisture build up.

56. Landlords should note that simple upgrades that can be easily controlled are more likely to be used effectively. Some systems use passive control features like humidistats to automatically turn on extract ventilation when the space becomes too humid. Smart heating controls can be used to simplify the user inputs needed to keep the space comfortable. Finally, the provision of information through manuals and log books can be an effective way of communicating with tenants about how to use energy efficiency features most effectively.
57. Care must also be taken when installing insulation (particularly internal insulation) in order to avoid creating thermal bridges, or cold bridges. Cold bridges occur when one element with insulation is adjacent to another element without insulation. It is common around window reveals, hard to reach corners, or near party walls. Cold bridging is particularly problematic in retrofit projects because it changes the way heat flows out of the building. For example if one insulates an internal wall, but not the window reveal, it creates local cold spots in an otherwise warm space. Condensation, mould growth, and potential structural damage can in fact be more likely to occur on the window reveal after the room was insulated than before. It is essential that any insulation project is undertaken with sufficient detailing to limit cold bridging.
58. There will almost always be multiple paths available that bring an F or G rated property up to an E rating. In many cases a single measure such as insulating solid walls or updating a heating system will be sufficient to achieve an E rating or better. However, it is recommended to seek professional advice on effectively combining measures using a 'whole house' approach to ensure that the renovation upgrades are not only as efficient as possible, but also avoid the adverse consequences described above. In particular, note that even small energy efficiency improvements made separately over a long time period can have a cumulative effect that greatly changes how the building performs.
59. In many cases, improvements to the building also require changes in occupant behavior. In complying with the Regulations, Landlords should consider the holistic performance of the building and aim to select a combination of measures that offer a suitable balance for the building and its occupants. The Landlord should exercise caution and seek expert advice both in selecting the measures that will be taken and in communicating to their tenants how to effectively use those measures.

-
60. Landlords should also take care in selecting suitably qualified contractors with the range of expertise needed to offer advice for a specific building. This can be challenging, because as discussed above, a 'whole house' approach to energy efficiency frequently reaches across the core expertise of many specialist contractors. Landlords should ensure that the advice they receive covers the performance of the whole house including interactions between different retrofit measures such as how the adding insulation will affect the air tightness and breathability of the building.
61. Most housing retrofit work should be undertaken by contractors holding an NVQ – Level 3 qualification in a topic suitable to the work being carried out. It is also desirable if the contractor holds qualifications through a scheme such as PAS 2030. In nearly all cases, retrofit work will need to comply with the Building Regulations through either the Local Authority, an Approved Inspector, or the Competent Persons scheme. If the property in question is a traditional building, then knowledge of BS 7913: Guide to the Conservation of Historic Buildings is encouraged.
62. Landlords should attempt to become as informed as possible about both their homes and energy efficiency prior to approaching contractors for quotations on retrofit work. Further information is available through BEIS and other resources such as the Energy Saving Advice Service. In addition to general advice on energy efficiency, there are a number of services available specifically for traditional buildings through groups such as Historic England (www.HistoricEngland.org.uk/energyefficiency). Finally, there are often local services offered at the council level, and Landlords are encouraged to approach their Local Authorities for more direct advice.

Chapter 4: Exclusions and Exemptions

The following chapter sets out information on the exclusions and exemptions from meeting the minimum standard which are permitted by the Regulations.

Please note that any exemptions from the prohibition on letting substandard property which are claimed by a landlord may not pass over to a new owner or landlord upon sale, or other transfer of that property. If a let property is sold or otherwise transferred with an exemption registered, the exemption will cease to be effective and the new owner will need to either improve the property to the minimum standard at that point, or register an exemption themselves where one applies, if they intend to continue to let the property.

As noted in the introduction to this guidance, any notice served by a landlord, a tenant, or a third party under the Regulations, including where the landlord is approaching a third party to obtain consent to make an improvement, must be made in writing. A notice may be sent by post, however e-mail and other electronic communication will also be acceptable. Where the notice is sent to a body corporate, the Regulations state that it may be addressed to the secretary or clerk at that body corporate, although it would be best practice for the party in question to send any correspondence to the most relevant contact at the organisation, including any named individual with whom the landlord typically corresponds with, on issues such as the day to day contact relating to the tenancy. Where a notice or other communication is sent to a partnership, the Regulations state that it may be addressed to any partner or a person who has control or management of the partnership business (Regulation 3).

Please Note: for all exemptions described below which relate to a ‘relevant improvement’, exemptions should only be registered where the improvement in question is the *only* relevant improvements which can be made to a property. For example, if a range of relevant improvements have been identified, and one of those improvements would require planning consent, which is subsequently refused, the landlord should take steps to make the other improvements which do *not* require planning consent, rather than register a ‘consent exemption’ and neglect those improvements which *are* viable.

4.1 Exemptions

4.1.1 Where all the ‘relevant energy efficiency improvements’ for the property have been made (or there are none that can be made) and the property remains sub-standard (Regulation 25)

63. The requirement to meet the minimum level of energy efficiency (EPC E) does not apply where a landlord has made *all* the relevant energy efficiency improvements to the property that can be made (or there are none that can be made³⁸), and the property remains sub-standard (please see section 2.1 in chapter two for the definition of ‘relevant energy efficiency improvements’).
64. If this is the case, then the situation must be registered on the National PRS Exemptions Register (see table one in chapter five). The exemption will last five years; after this time it will expire and the landlord must try again to improve the property’s EPC rating to meet the minimum level of energy efficiency. If this cannot be achieved then a further exemption may be registered. This exception is separate and additional to the specified exemptions which are discussed in chapter three of this guidance document.

³⁸ ‘None that can be made’ means that either: no energy efficiency improvements have been recommended for the property on an EPC or other advice report, or that of those measures which have been recommended, none can be wholly financed with no cost to the landlord.

4.1.2 Where a recommended measure is *not* a “relevant energy efficiency improvement” because the cost of purchasing and installing it cannot be wholly financed at no cost to the landlord (Regulation 25(1)(b))

Live Consultation Alert. Please be aware: on 19 December 2017 Government launched a consultation exercise on proposals to amend the domestic regulations. A key proposal in this consultation is an amendment to the funding arrangements for the domestic minimum standard described at section 2.1.2 of this guidance. This proposal, if taken forward, will impact on ‘no cost to the landlord’ exemptions as described below, including exemptions registered before amended regulations take effect.

The consultation proposal involves the removal of the ‘no cost to the landlord’ principle (as discussed at 2.1.2 of this guidance), and the introduction of a ‘landlord funding contribution’ component which would take effect if a landlord is unable to obtain suitable third party funding. If this proposal is taken forward, ‘no cost to the landlord’ exemptions will be unavailable once the amended regulations have come into force.

The consultation document can be accessed [here](#)³⁹. Responses to the consultation must be submitted by 13 March 2018.

65. The prohibition on letting property below an EPC energy efficiency rating of E does not apply if a landlord has been unable to access relevant ‘no cost’ funding to fully cover the cost of installing the recommended improvement or improvements. See 2.1.2 in chapter two for information on ‘no cost’ funding.
66. If the prohibition does not apply for this reason then the case must be registered on the national PRS Exemptions Register (see table one in chapter five). The exemption will last five years; after this time it will expire and the landlord must try again to improve the property’s EPC rating to meet the minimum level of energy efficiency. If this cannot be achieved then a further exemption may be registered.

³⁹ www.gov.uk/government/consultations/domestic-private-rented-sector-minimum-level-of-energy-efficiency

When registering a 'no cost' exemption on the PRS Exemptions Register a landlord may provide a self-certified narrative explanation for why no (or insufficient) funding could be obtained to fully cover the cost of installing an improvement. However a landlord may also upload additional supporting evidence if they feel this would be helpful.

Supporting evidence demonstrating that a landlord has been unable to access suitable 'no cost' funding could include:

- Written advice from a Green Deal Provider setting out that Green Deal funding is unavailable to cover the cost of a measure, or that it is only available to partially cover the cost;
- Advice from an energy supplier or the Energy Savings Advice Service confirming that ECO funding is unavailable to fully cover the cost of installing a recommended improvement
- Advice from a Local Authority confirming that no landlord grants are available to cover the cost of making improvements.

4.1.3 Relevant energy efficiency improvements - wall insulation (Regulation 24(2))

67. The Regulations recognise that certain wall insulation systems cannot, or should not, be installed on particular properties in particular instances even where they have been recommended for a property, and where funding can be secured to cover the costs of installing them (see chapter three for some further technical advice on the potential impacts of insulation on a building). Therefore there is a special provision relating to the circumstances in which cavity wall insulation, external wall insulation systems, and internal wall insulation systems should be installed.

68. The special provision is that a recommended energy efficiency measure is not considered to be a relevant measure where it is:

- cavity wall insulation, external wall insulation or internal wall insulation (for external walls), and

-
- where the landlord has obtained written expert advice which indicates that the measure is not appropriate for the property due to its potential negative impact on the fabric or structure of the property (or the building of which the property forms a part).

69. The expert advice the landlord provides must be obtained from one of the following independent experts:

- an architect registered on the *Architect Accredited in Building Conservation* register,
- a chartered engineer registered on the Institution of Civil Engineers' and the Institution of Structural Engineers' *Conservation Accreditation Register for Engineers*,
- a chartered building surveyor registered on the *Royal Institution of Chartered Surveyors' Building Conservation Accreditation* register, or
- a chartered architectural technologist registered on the *Chartered Institute of Architectural Technologists' Directory of Accredited Conservationists*.

70. Alternatively, if the advice is not, or cannot be, obtained from one of the above experts, advice may be obtained from an independent installer of the wall insulation system in question who meets the installer standards for that measure, as set out in Schedule 3 to the [Building Regulations 2010⁴⁰](#), as reproduced at **Appendix E** of this document.

Please note: the Regulations define an “independent” expert or installer as a person who is not a spouse or civil partner of the landlord or superior landlord. Where the landlord is a company rather than an individual person, then an independent expert or installer must be someone who is not, and has not been in the last 12 months been:

- a director, partner, shareholder or employee of, or other person exercising management control over, the landlord or the superior landlord, or
- a spouse or civil partner of a person falling within the sentence above.

⁴⁰ www.legislation.gov.uk/ukxi/2010/2214/pdfs/ukxi_20102214_en.pdf

If a landlord intends to rely on the special provisions relating to wall insulation in order to let a sub-standard property, they must register the property and all required information on the PRS Exemptions Register (see table one in chapter five for more information).

4.1.4 Third party consent exemption (Regulation 31 and Regulation 36(2))

71. Depending on circumstances, certain relevant energy efficiency improvements may legally require third party consent before they can be installed in a property. Such improvements may include external wall insulation or solar panels which can require local authority planning consent in certain instances, consent from mortgage lenders, or other third parties. Consent from a superior landlord may be required where the landlord is themselves a tenant. Consent may also be required from the current tenant of the property or other tenants depending on the provisions of the tenancy or tenancies. Where third party consent is required for a particular measure the landlord must identify this requirement and make, and be able to demonstrate to enforcement authorities on request, 'reasonable effort' to seek consent.
72. It is not practical to provide an exhaustive list of all situations where third party consent will apply. Information on when and where consent is required will be contained within relevant documentation, for example in the landlord's lease or mortgage conditions. If a landlord is in any doubt about whether consent is required for a measure they should seek appropriate advice. Landlords are also strongly advised to speak to their local authority planning department if they are in any doubt about whether planning consent is needed to implement a particular improvement, particularly where the building to be improved is listed or within a conservation area.

Box Ten

Tenant Consent to Energy Efficiency Improvement Works

One issue which landlords should consider is whether or not they have the right to carry out improvement works under the terms of an existing tenancy. Landlord rights of entry to undertake work on a property typically only extends to the carrying out of repairs or maintenance, rather than making 'improvements'. As a majority of the measures landlords can install to meet the minimum standard will be considered improvements, a landlord may not have an automatic right of entry to install the measure or measures, and tenant consent may be necessary.

On the other hand, if the tenancy agreement specifically gives the landlord

right of entry to undertake 'improvement works', tenant consent may not be necessary. In all cases the wording of individual tenancies will dictate what is and is not permissible without consent.

73. The landlord may let a sub-standard property where they can demonstrate that they have been unable to improve the energy efficiency rating of the property to at least the minimum level of energy efficiency (EPC rating E) because they could not obtain one or more necessary consents. If this applies and the landlord registers the exemption on the national PRS Exemptions Register, the landlord will be exempt from the prohibition on letting sub-standard property for five years from the date the exemption is registered, or, where lack of tenant consent was the issue, until the current tenancy ends. This exemption applies where the landlord:

- needed consent from another party, such as a superior landlord, a mortgagee, freeholder (if the landlord in question is a leaseholder of the property being let) or planning or listed building consent, and despite their reasonable efforts they could not obtain that consent, or the consent was given subject to conditions they could not reasonably comply with; or
- could not carry out the proposed improvements without the consent of the tenant or tenants of the property, and one or more of the tenants refused to give consent.

74. Please note: where a particular improvement cannot be made due to consent considerations, but where there are other relevant improvements which can be made, and for which consent will not prove a barrier, the landlord will (subject to any of the other exemptions and exceptions) still be required to install these, and will not be able to rely on the consent exemption in relation to them.

75. Also note, where improvements cannot be made because consent could not be obtained from the current tenant of the property, the exemption will only remain valid for as long as that tenant remains the tenant.

Box Eleven

Reasonable Efforts to Obtain Consents

The Regulations require the landlord to make 'reasonable efforts' to obtain

third party consent. Reasonable efforts may include attempts on a number of separate occasions and using a number of different available means of communication to secure agreement from, for example, a tenant or superior landlord, with evidence to show this had been done (in the case of planning consent refusal, evidence of a single application and subsequent refusal is likely to be sufficient evidence).

Broadly speaking, it is thought that that it will not be reasonable for the landlord to comply with a condition which may reduce the landlord's ability to let the property or if it involves unreasonable costs. Where the landlord does not agree with an enforcement authority's review of a penalty notice, he or she can appeal to the First Tier Tribunal.

4.1.5 Property devaluation exemption (Regulation 32 and Regulation 36 (2))

76. An exemption of five years from meeting the minimum standard will apply where the landlord has obtained a report from an independent surveyor who is on the Royal Institution of Chartered Surveyors (RICS) register of valuers⁴¹ advising that the installation of specific energy efficiency measures would reduce the market value of the property, or the building it forms part of, by more than five per cent. This exemption provides a safeguard for landlords in situations where energy efficiency measures might significantly impact upon the property's commercial value, although the government expects this exemption will apply infrequently.
77. A surveyor's report prepared to support this exemption must clearly state all the recommended relevant energy efficiency measures for the property that would lead to it being devalued. In such cases a landlord will still be required to install any relevant improvements recommended for their property that are not covered by the surveyor's report (unless another exemption applies).
78. Where the property cannot be improved to an EPC rating of E because certain energy efficiency measures will devalue the property, and the landlord intends to rely on an exemption to comply with the Regulations, the landlord

⁴¹ The Royal Institution of Chartered Surveyors' register of valuers may be accessed via their website: <http://www.ricsfirms.com/> . Please note that the RICS register contains the details of surveyors covering a range of disciplines, therefore landlords seeking a valuation report for the purposes of a property devaluation exemption are advised to check that any valuer they intend to instruct is competent to carry out a valuation of this type.

must register the exemption. Details on the registration of an exemption on the PRS Exemptions Register are provided in chapter four. After five years the exemption will expire and the landlord will again need to try to improve the property to meet the minimum standard, or register another valid exemption.

4.1.6 Temporary exemption due to recently becoming a landlord (Regulation 33 & Regulation 36 (2))

79. The Regulations acknowledge that there are some, limited circumstances where a person may have become a landlord suddenly and as such it would be inappropriate or unreasonable for them to be required to comply with the Regulations immediately. If a person becomes a landlord in any of these circumstances (set out below), a temporary exemption from the prohibition on letting a sub-standard property, or on continuing to let a sub-standard property, will last for six months after the date they become the landlord and will apply from that date.

80. The circumstances are:

- the grant of a lease due to a contractual obligation (this is intended to cover a situation where a contract was entered into on a contingent basis, regardless of whether it was entered into before or after the Regulations came into force);
- where the tenant becomes insolvent and the landlord has been the tenant's guarantor (in this situation, the tenant's guarantor becomes a landlord when taking over the lease);
- 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* (for the avoidance of doubt, a "guarantor" who exercises this right under the 1995 Act is the guarantor of a former tenant);
- 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 Part 2 of the Landlord and Tenant Act 1954*.

81. Additionally, from 1 April 2020, when the minimum standard applies to all privately rented domestic properties that are occupied by tenants, a temporary exemption of six months will apply from the date from which a person became a landlord in the following situation:

-
- A person becomes the landlord on purchasing an interest in a property and, on the date of the purchase, it was let on an existing tenancy.

82. In all cases landlords are advised to obtain their own independent legal advice if they are unsure about whether any of these temporary 'recent landlord' exemptions apply in their case. Where a landlord does intend to rely on one of these exemptions, they must register the exemption on the PRS Exemptions Register (see table one in chapter five for more details) at their earliest opportunity. After six months the exemption will expire and the landlord must either have improved the energy efficiency of the property to at least EPC band E, or have registered another valid exemption, if they intend to continue letting.

Frequently Asked Questions Relevant to Chapter Four

Q: Don't landlords have to get consent from their tenants before they can install measures? Is it right that tenants should be able to veto energy efficiency improvements in this way?

A: There is no requirement in the regulations for a landlord to seek consent from a tenant to install energy efficiency measures where such a requirement does not already exist.

Depending on the terms of the tenancy agreement between an individual tenant and landlord (and all tenancies are different), the landlord may need to obtain tenant consent before undertaking certain works (energy efficiency related or otherwise). Where this requirement already exists, the PRS Regulations recognise that that consent should be obtained before work is undertaken (alongside any other form of third party consent, such as planning consent).

Between April 2018 and April 2020 landlords are only required to improve F or G rated properties before signing a new tenancy agreement. To do this government anticipates that many landlords will make improvements while a property is vacant between tenancies. Therefore in many cases tenant consent may not be a consideration.

Q: What if it is not possible for my property to reach the Minimum Standard even with all possible improvement works undertaken?

A: In this case the landlord in question would be, eligible for an exemption under section 25(1) (a) of the Regulations. The landlord is still obliged to install as much energy efficiency measures as possible to reach the Minimum Standard; they would have to provide details of the recommended improvement measures that have been installed.

Q: My property has solid walls and not cavity walls; will this give me an exemption from these regulations?

A: There is no automatic exemption. If solid wall insulation has been recommended for the property and the landlord can obtain funding for the insulation, then they should take steps to have it installed. However, if this type of

improvement works would risk harming the fabric or structure of the property then the landlord will be able to register an exemption. This exemption would need to be supported by a surveyors report stating that the wall insulation measure would damage the property. The landlord would also be expected to install any other relevant measures which would improve the property (unless a separate exemption applied to them).

Information on Solid Wall Insulation:

If a property was built before 1919, its external walls are likely to be of solid rather than cavity wall construction. Cavity walls are made of two layers with a small gap or 'cavity' between them. Solid walls have no gap, so they let more heat through.

Solid walls can be insulated – either from the inside or the outside. They will cost more than insulating a standard cavity wall, but the savings on heating bills may be greater too. There are many benefits to solid wall insulation; however there are a number of points to consider:

- Internal wall insulation will need any problems with penetrating or rising damp to be fixed first,
- Internal wall insulation might require pipework and other building services to be moved,
- External insulation is not recommended if the outer walls are structurally unsound and cannot be repaired,
- Solid wall insulation will not have to be installed under the regulations where evidenced expert External insulation may need planning permission - check with your local council,
- External insulation requires good access to the outer walls.

In addition, in instances where a local planning authority requires planning permission to install solid wall insulation, and will not grant permission to install on a particular PRS property, solid wall insulation will not have to be installed.

Chapter 5: The National PRS Exemptions Register

Where a landlord considers that an exemption applies allowing them to continue to let a property below the minimum energy efficiency standard, that landlord will need to provide details and evidence of the exemption to a centralised self-certification register – the PRS Exemptions Register. The following chapter discusses the information a landlord will need to provide in order to lodge and evidence an exemption.

5.1 The Exemptions Register

83. Landlords of F and G rated domestic property (or their agents) are able to register valid exemptions from the 1st October 2017⁴². The National PRS Exemptions Register can be accessed via the gov.uk *Private Rented Property Minimum Standard* page [here](#)⁴³. Only those domestic properties which are covered by the Regulations, and which qualify for a valid exemption, should be registered. This means that domestic F or G properties which are not covered by the Regulations, for example buildings which are not legally required to have an EPC, (see section 1.1.4), or which have not been subject to a new tenancy agreement (April 2018 to April 2020 only) will not be required to register. Properties which are covered by the Regulations and which have been improved to a minimum of EPC E will not need to be registered on the Register.

⁴² The Exemptions Register was initially scheduled to open on 1 October 2016. This was subsequently amended by the *Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2016*.

⁴³ www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents

84. Exemptions will be made on a self-certification basis, with enforcement authorities monitoring and auditing to ensure that exemptions are registered in compliance with the Regulations. Registration of an exemption will not attract a fee or charge. Registration of an exemption will not generate an exemption certificate or other formal documentation (although a confirmation e-mail will be sent), but the exemption will be logged on the register and all data related to the exemption will be accessible by the relevant enforcement authority. Some non-personal data related to the exemption will also be viewable by members of the public (see below) via the exemption search page.

85. The Register will be used by enforcement authorities as a tool to support enforcement of the minimum standard; it will also be used by BEIS to monitor the impact of the Regulations and to gather relevant statistics. For this reason enforcement authorities and BEIS will have access to all information submitted to the database, in line with data protection requirements.

86. While the Register will be available from 1st October 2017 and domestic landlords may register valid exemptions from that point if they wish, there is no requirement to register an exemption for a property (assuming an exemption applies) before the minimum standard requirements come into force from 1 April 2018, and before a new tenancy triggers the need for that property to comply with the Regulations.

Public access to the register

87. As noted above, the Regulations require that a part of the Exemptions Register service must be open to the public, providing limited information about exemptions registered. In line with the Regulations, information available on the publically accessible section of the service will be limited to:

- addresses of properties for which exemptions have been registered;
- names of landlords of exempt properties where the landlord is *not* an individual person;
- the exemptions relied on (consent exemption, devaluation exemption etc);
- a copy of valid EPCs for exempt properties; and
- the dates on which exemptions were registered.

88. This public element of the Register will be open from April 2018.

Exemption lengths

89. As discussed earlier in this guidance, the majority of exemptions which may be registered on the PRS Exemptions Register last for a period of five years. The five year period is intended to give certainty to landlords and to allow for a realistic chance that circumstances (for example, changes in fuel prices, availability of other funding mechanisms, or reductions in the cost of improvements) may have changed enough for improvements to be made in a way which meets the requirement of the Regulations. The two exceptions to the five year exemption rule are those relating to lack of tenant consent, which last for five years or until the tenancy of the non-consenting tenant ends (whichever is soonest), and the exemption for recently becoming a landlord, which lasts for a period of six months.
90. As discussed above, exemptions claimed by a landlord may not pass over to a new owner or landlord of a property upon sale, or other transfer. On such a transfer, they will cease.

5.1.1 General principles of the Register

91. Information placed on the Register must be current at the time the exemption is registered. This means, for example, if a landlord intends to register an exemption on the grounds that they have been unable to obtain suitable 'no cost' funding required to improve the property to a minimum of EPC E, the landlord will have to show that at the time of registering the exemption there was no funding or financial product available in the market which they could access. As this type of exemption is based on the landlord's *current* ability to access 'no cost' funding, they would not be able to rely on evidence which showed that they had been unable to access such funding in the past.
92. For all exemptions discussed in this document, the information required by the Regulations to support the exemption must be registered on the PRS Exemptions Register *before* the landlord can rely on the exemption they are claiming. The Register and the validity of registered exemptions will be scrutinized by enforcement authorities to ensure compliance. If an enforcement authority believes that a landlord is in breach of the prohibition on letting a sub-standard property, including where they may have supplied misleading or incomplete information or evidence to the Exemptions Register, the enforcement authority may serve a compliance notice (requesting information from that landlord which will help them to decide whether that landlord has breached the prohibition) or a penalty notice.

93. If a landlord has any questions or concerns about the evidence needed to support an exemption, they should speak with their Local Authority, who will be responsible for enforcement within their geographic boundary, in advance of registering the exemption. See chapter six for more information on enforcement.

5.2 Exemptions Register data and evidence requirements

94. Before a landlord can register an exemption on the Register they will be asked to set up a unique user account for the site. This account will capture details including their name (or the company name) and contact details, including e-mail address and telephone number. The account will then enable landlords seeking to register exemptions for one or more properties to manage their exemptions via a single user portal.

95. Once a unique user account has been set up, the landlord will be required to submit information relating to the particular property to be exempt, alongside information and evidence to support the exemption being relied on. Table One below sets out the common information requirements for all exemptions, followed by the additional information required for specific exemptions.

Please note: as discussed in chapter four, for the individual ‘relevant improvements’ exemptions listed below to be valid, landlords must demonstrate that there are no other energy efficiency improvement measures that can be installed as an alternative to the measure(s) that they are seeking an exemption for.

Table One:

Exemptions Register Information requirements	
Information required for <i>all</i> exemptions:	<ul style="list-style-type: none"> • The address of the relevant rental property; • which exemption to the Regulations the landlord is registering; • a copy of a valid Energy Performance Certificate for the property;

Additional Information and Evidence Related to Specific Exemption	
<p>Registering an exemption under the regulation 25(1)(b) exception - where a recommended measure is <i>not</i> a “relevant energy efficiency improvement” because the cost of purchasing and installing it cannot be wholly financed at no cost to the landlord (see Regulation 24(3):</p>	<ul style="list-style-type: none"> • A description of why the landlord has been unable to obtain adequate ‘no cost’ funding. • Optionally, the landlord may also provide a copy of any evidence on which the landlord relies to demonstrate that they have been unable to access relevant ‘no cost’ funding to fully cover the cost of installing the recommended improvement or improvements: <p>Evidence of a landlords inability to access relevant ‘no cost’ funding may include a notification from a Green Deal provider advising that no Green Deal finance is available for a recommended measure, or that funding is only available to partially cover the costs.</p>
<p>Registering an exemption under the regulation 25(1)(a) exception - where all relevant improvements have been made and the property remains below an E (see section 4.1.1):</p>	<ul style="list-style-type: none"> • Details of any energy efficiency improvement recommended for the property in a relevant recommendation report (if separate to the relevant EPC), including a report prepared by a surveyor, or a Green Deal Advice Report; • Details, including date of installation, of all recommended energy efficiency improvements which have been made at the property in compliance with the Regulations.
<p>Registering an exemption under the regulation 25(1)(b) exception – where the property is below an E and there are no relevant improvements which can be made (see section 4.1.1):</p>	<ul style="list-style-type: none"> • A copy of the relevant report to demonstrate this (if separate to the relevant EPC).
<p>Registering a wall insulation exemption under regulation 24(2) (see section 4.1.3):</p>	<ul style="list-style-type: none"> • A copy of the written opinion of a relevant expert stating that the property cannot be improved to an EPC E rating because a recommended wall insulation measure would have a negative impact on the property (or the building of

	which it is a part).
Registering a consent exemption under regulation 31(1) (see section 4.1.4):	<ul style="list-style-type: none"> • A copy of any correspondence and/or relevant documentation demonstrating that consent for a relevant energy efficiency measure was required and sought, and that this consent was refused, or was granted subject to a condition that the landlord was not reasonably able to comply with. <p>Please note: where the party who withheld consent was a tenant, the exemption will only remain valid until that tenant's tenancy ends. When that tenant leaves the property (or after five years, whichever is soonest) the landlord will need to try again to improve the EPC rating of the property, or register another exemption, if applicable.</p>
Registering a devaluation exemption under regulation 32(1) (see section 4.1.5):	<ul style="list-style-type: none"> • A copy of the report prepared by an independent RICS surveyor that provides evidence that the installation of relevant measures would devalue the property by more than 5%.
Registering an exemption upon recently becoming a landlord (regulation 33(1) or (3)) (see section 4.1.6):	<ul style="list-style-type: none"> • The date on which they became the landlord for the property, and • the circumstances under which they became the landlord (any of the circumstances set out at section 3.1.3 of this guidance). <p>Please note: Where a person wishes to register an exemption upon recently becoming a landlord, the exemption will last for a period of six months.</p>

Please note: as discussed earlier in this guidance, any exemptions from the prohibition on letting which are registered on the PRS Exemptions Register may not pass over to a new owner or landlord of a property upon sale, or other transfer. If a let property is sold or otherwise transferred with an exemption registered, the exemption will cease to be effective and the new owner will need

to either improve the property to the minimum standard at that point, or register an exemption where one applies, if they intend to continue to let the property.

Frequently Asked Questions Relevant to Chapter Five

Q: How long does an exemption last?

A: This depends on the nature of the exemption registered; the majority of exemptions run for five years, however several run for a shorter period of time. A full description of the exemptions and their lengths is set out in the chapter above.

Q: How can I register an exemption?

A: Domestic landlords can register valid exemptions from 1 October 2017. The Register is an online platform and can be accessed from the *Private Rented Property Minimum Standard* page on gov.uk at:
www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents

Q: Can I register an exemption offline (without using the online portal)?

A: The exemption register is a digital by default, service however if you need advice, or assistance with registering an exemption, you can email PRRegisteraccess@BEIS.gov.uk with your query, or call 020 7215 5000.

Q: What happens to the information about landlords and properties that is captured and stored on the Exemptions Register, will this information be available to the public or will it be confidential?

A: Certain non-personal data placed on the register will be viewable by the general public. Any personal data, along with all supporting evidence uploaded to the register, will be accessible to the relevant local enforcement authority only for enforcement purposes.

Chapter 6: Enforcement of the Domestic Minimum Level of Energy Efficiency

The following chapter is aimed at both landlords and enforcement authorities, and outlines the steps an enforcement authority may take where it believes a landlord is in breach of the minimum level of energy efficiency provisions. It also broadly sets out what both parties might expect to happen if an appeal is made to the First-tier Tribunal against a compliance notice which an enforcement authority has made, and links to further guidance.

In all cases it is recommended that a landlord and an enforcement authority attempt to resolve any dispute informally first, and take expert advice before the matter progresses to the First-tier Tribunal.

6.1 Compliance and enforcement

6.1.1 Enforcement authorities (Regulations 34 and 35)

96. Every Local Authority is the “enforcement authority” for their area, and will be responsible for enforcing compliance with the minimum level of energy efficiency provisions within their geographic boundaries. A representative or authorised officer of the Local Authority may carry out the enforcement activities including using the information held on the national PRS Exemptions

Register or produced in response to a compliance notice to monitor compliance, and issue compliance and penalty notices where applicable.

97. Enforcement authorities can choose which function they wish to use to enforce the minimum standards regulations – for example they may decide to use Trading Standards Officers or Environmental Health Officers. However, it is ultimately up to individual Local Authority as to how they wish to enforce the minimum standard, taking into account the particular needs of their area.
98. The authorised officer may check for different forms of non-compliance with the Regulations including:
- from 1 April 2018 whether the property is sub-standard and let in breach of Regulation 27 (which may include continuing to let the property after 1 April 2020)(see section 1.2);
 - where the landlord has registered any false or misleading information on the PRS Exemptions Register, or has failed to comply with a compliance notice (see section 6.1.2 below).

6.1.2 When the enforcement authority may decide to serve a compliance notice (Regulation 37)

99. From 1 April 2018, where the enforcement authority believes that a landlord may be in breach of the prohibition on letting a sub-standard property (as described in section 1.2.1), or a landlord has been in breach of the prohibition at any time in the past 12 months, the enforcement authority may serve a compliance notice that requests information from that landlord which will help them to decide whether that landlord has in fact breached the prohibition.
100. The fact that an enforcement authority may serve a compliance notice on a landlord up to 12 months after the suspected breach means that a person may be served with a compliance notice after they have ceased to be the landlord of the property. It is good practice, therefore, for landlords to retain any records and documents relating to a let property that may be used to demonstrate compliance with the Regulations.
101. Any notice that is served under the Regulations must be in writing and may be sent in hard copy or electronically. Where a notice is served on a corporate body it may be given to the secretary or clerk of that body if a suitable named individual cannot be identified. Where a notice is served on a partnership, it may be addressed to any partner, or to a person who has control or management of the partnership business (**Regulation 3**).

102. A compliance notice served by an enforcement authority may request either the original or copies of the following information:

- the EPC that was valid for the time when the property was let;
- any other EPC for the property in the landlord's possession;
- the current tenancy agreement used for letting the property;
- any Green Deal Advice Report in relation to the property;
- any other relevant document that the enforcement authority requires in order to carry out its compliance and enforcement functions.

103. The compliance notice may also require the landlord to register copies of the requested information on the PRS Exemptions Register. The compliance notice will specify:

- the name and address of the person that a landlord must send the requested information to;
- the date by which the requested information must be supplied (the notice must give the landlord at least one calendar month to comply).

104. The landlord must comply with the compliance notice by sending the requested information to the enforcement authority and allow copies of any original documents to be taken. Failure to provide documents or information requested by a compliance notice, or failure to register information on the PRS Exemptions Register as required by a compliance notice, may result in a penalty notice being served (see section 6.2.3 below).

105. The enforcement authority may withdraw or amend the compliance notice at any time in writing, for example where new information comes to light. The enforcement authority may also use the documents provided by the landlord or any other information it holds to decide whether the landlord is in breach of the Regulations.

6.2 Penalties

6.2.1 Financial penalties (Regulation 40)

106. Where the Local Authority decides to impose a financial penalty, they have the discretion to decide on the amount of the penalty, up to maximum limits set by the Regulations. The maximum penalties are as follows:

- (a) Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication

penalty.

(b) Where the landlord has let a sub-standard property in breach of the regulations for 3 months or more, the Local Authority may impose a financial penalty of up to £4,000 and may impose the publication penalty.

(c) Where the landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose the publication penalty.

(d) Where the landlord has failed to comply with compliance notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.

107. A local authority may not impose a financial penalty under both paragraphs (a) and (b) above in relation to the same breach of the Regulations. But they may impose a financial penalty under either paragraph (a) or paragraph (b), together with financial penalties under paragraphs (c) and (d), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

108. It is important to note that this maximum amount of £5,000 applies per property, and per breach of the Regulation. Given this, it means that, if after having been previously fined up to £5,000 for having failed to satisfy the requirements of the regulations, a landlord proceeds to unlawfully let a substandard property on a new tenancy; the local enforcement authority may again levy financial penalties up to £5,000 in relation to that new tenancy.

Table Two:

Infringement	Penalty (less than three months in breach)	Penalty (three months or more in breach)
Renting out a non-compliant property	<ul style="list-style-type: none">• Up to £2,000, and/or• Publication penalty.	<ul style="list-style-type: none">• Up to £4,000, and/or• Publication penalty.
Providing false or misleading information on the PRS Exemptions Register	Up to £1,000, and/or Publication penalty	
Failing to comply with a compliance notice	Up to £2,000, and/or Publication penalty	

109. It is important to note that the maximum penalty amounts apply **per property**, and **per breach of the Regulations**.

Box Twelve

PRS Non-Compliance Financial Penalty Examples

Example 1

If the landlord has let a sub-standard property in April 2018, and has been in breach of the Regulations for two months at the time a penalty notice is served, the enforcement authority could impose a financial penalty of up to £2,000 in relation to that breach. A publication penalty may also be levied against the landlord in question (explained below in 5.2.2).

If the landlord re-lets that property in 2019 to a new tenant, and has again been in breach of the Regulations for less than 3 months at the time the penalty notice is served (or if they are still letting the property on 1 April 2020), that would be a new breach of Regulation 23, and the enforcement authority could impose financial penalties in relation to that new breach of up to £2,000.

Example 2

If the landlord lets two sub-standard properties, and in respect of each has been in breach of the Regulations for one month at the time the penalty notice is served, the enforcement authority may impose financial penalties of up to £2,000 in relation to **each** property plus the publication penalty.

Example 3

If the landlord lets a sub-standard property for more than three months, in breach of the Regulations, registers misleading information on the PRS Exemptions Register in relation to that letting, and fails to comply fully with a compliance notice served in relation to that letting, the enforcement authority could impose a financial penalty of up to £5,000 (up to £4,000 for letting the property, up to £1,000 for registering false or misleading information, and up to £2,000 for breach of compliance notice – but the total is capped at £5,000).

6.2.2 Publication penalty (Regulation 39)

110. A publication penalty means that the enforcement authority will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The enforcement authority can decide how long to leave the information on the Register, but it will be available for view by the public for at least 12 months.

111. The information that the enforcement authority may publish is:

- the landlord's name (except where the landlord is an individual);
- details of the breach;
- the address of the property in relation to which the breach occurred; and
- the amount of any financial penalty imposed.

112. The enforcement authority may decide how much of this information to publish. However, the authority may not place this information on the PRS Exemptions Register while the penalty notice could be, or is being reviewed by the Local Authority (see section 6.2.5), or while their decision to uphold the penalty notice could be, or is being, appealed (see section 6.3).

6.2.3 Circumstances in which a penalty notice may be served (Regulation 38)

113. From 1 April 2018, the enforcement authority may serve a penalty notice (relating to a financial penalty, a publication penalty or both) on the landlord where they are satisfied that the landlord is, or has been in the last 18 months:

- in breach of the prohibition on letting sub-standard property (which may include continuing to let the property after 1 April 2020) (see section 1.2.1); or
- in breach of the requirement to comply with a compliance notice (see section 6.1.2), or
- has uploaded false or misleading information to the Exemptions Register.

114. Again, the fact that an enforcement authority may serve a penalty notice on a landlord up to 18 months after the suspected breach means that a person may be served with a penalty notice after they have ceased to be the landlord of a property.

6.2.4 What will be included in a penalty notice (Regulation 38)

115. The penalty notice may include a financial penalty, a publication penalty or both. The penalty notice will:

- explain which of the provisions of the Regulations the enforcement authority believe the landlord has breached;
- give details of the breach;
- tell the landlord whether they must take any action to remedy the breach and, if so, the date within which this action must be taken (the date must be at least a month after the penalty notice is issued);
- explain whether a financial penalty is imposed and if so, how much and, where applicable, how it has been calculated;
- explain whether a publication penalty has been imposed;
- where a financial penalty is imposed, tell the landlord the date by which payment must be made, the name and address of the person to whom it must be paid and the method of payment (the date must be at least a month after the penalty notice is issued);
- explain the review and appeals processes (see sections 6.2.5 and 6.3 below), including the name and address of the person to whom a review request must be sent, and the date by which the request must be sent; and
- explain that if the landlord does not pay any financial penalty within the specified period, the enforcement authority may bring court proceedings to recover the money from the landlord (see section 6.2.6).

116. A further penalty notice may be issued if the action required in the penalty notice is not taken in the time specified.

117. As noted above, when an enforcement authority issues a penalty notice which carries a right of appeal, they must tell the landlord about that right of appeal. Typical wording might be:

“You have a right of appeal against this decision to the General Regulatory Chamber (GRC) of the First Tier Tribunal. If you wish to appeal you should do so within 28 days of the date of this letter by writing to (Leicester address).

You can obtain an appeal form from that address or from the tribunal website at (website address).”

118. Further details on the First-tier Tribunal appeals process (including postal and web addresses) are set out below at 5.3.

6.2.5 Circumstances in which a penalty notice may be reviewed or withdrawn (Regulation 42)

119. An enforcement authority may decide to review its decision to serve a penalty notice, for example when new information comes to light.

120. A landlord also has the right to ask the enforcement authority to review its decision to serve a penalty notice. This request must be made in writing. The penalty notice must tell the landlord how long they have to make this request, and who it must be sent to. When the enforcement authority receives the request it must consider everything the landlord has said in the request, and decide whether or not to withdraw the penalty notice.

121. The enforcement authority must withdraw the penalty notice if:

- they are satisfied that the landlord has not committed the breach set out in the penalty notice,
- although they still believe the landlord committed the breach, they are satisfied that the landlord took all reasonable steps, and exercised all due diligence to avoid committing the breach, or
- they decide that because of the circumstances of the landlord's case, it was not appropriate for the penalty notice to be served.

122. If the enforcement authority does not decide to withdraw the penalty notice, it might decide to waive or reduce the penalty, allow the landlord additional time to pay, or modify the publication penalty, and must explain the appeals process (see section 6.3) and how financial penalties can be recovered (see section 6.2.6).

123. Whatever they decide, the enforcement authority must inform the landlord of their decision in writing, and should do so at the earliest opportunity.

6.2.6 Recovery of financial penalties (Regulation 45)

124. If a landlord does not pay a financial penalty imposed on them, the enforcement authority may take the landlord to court to recover the money. In proceedings for the recovery of a financial penalty a certificate signed by or on behalf of the person with responsibility for the financial affairs of the

enforcement authority and stating that payment of the financial penalty was or was not received by a given date, will be accepted as evidence of the landlord's non-compliance with the penalty notice. Note however that the enforcement authority may not take the landlord to court to recover the money:

- a. during the period in which the landlord could ask the enforcement authority to review their decision to serve the penalty notice, or while they are reviewing their decision to serve the penalty notice, or
- b. during the period in which the landlord could appeal to the First-tier Tribunal (see section 6.3 below), or while there is an ongoing appeal to the First-tier Tribunal, against the penalty notice.

6.3 Appeals

6.3.1 Appeals to the First-tier Tribunal (General Regulatory Chamber) (Regulations 43 and 44)

125. The First-tier Tribunal (General Regulatory Chamber) is administered by Her Majesty's Courts and Tribunals Service and is the home for a range of rights of appeal. Where a landlord asks the enforcement authority to review a decision to serve a penalty notice and, on review, they decide to uphold the penalty notice, the landlord may then appeal to the First-tier Tribunal against that decision if they think that:

- the penalty notice was based on an error of fact or an error of law,
- the penalty notice does not comply with a requirement imposed by the Regulations, or
- it was inappropriate to serve a penalty notice on them in the particular circumstances.

126. The General Regulatory Chamber (GRC) is governed by a set of Tribunal Rules which can be found [here](#)⁴⁴. General information on the Tribunal can be found [here](#)⁴⁵.

127. If a landlord does appeal, the penalty notice will not have effect while the appeal is ongoing. A landlord may also wish to seek legal advice as part of considering or making an appeal, if they have not already done so.

⁴⁴ www.gov.uk/government/publications/general-regulatory-chamber-tribunal-procedure-rules

⁴⁵ www.gov.uk/courts-tribunals/first-tier-tribunal-general-regulatory-chamber

6.3.2 How to apply to the First-tier Tribunal

Note: the guidance which follows is general; the First-tier tribunal should be contacted for more detailed advice and guidance.

128. A landlord has 28 calendar days to submit an appeal from the date of the local authority's decision, and once submitted the landlord is referred to as 'the appellant'. The landlord should submit an appeal by sending a notice of appeal to the First-tier Tribunal (General Regulatory Chamber). The notice of appeal can be in the form of a letter, or a completed T98 form which can be found online at formfinder.justice.gov.uk⁴⁶. (Please note: guidance on completing the form can be found at: hmctsformfinder.justice.gov.uk/GetLeaflet⁴⁷).

129. If submitting an appeal in letter form, the notice of appeal must include the following (taken from rule 22 of the GRC Rules):

- the name and address of the appellant (the landlord);
- the name and address of the appellant's representative (if any);
- an address where documents for the appellant may be sent or delivered;
- the name and address of any respondent (the enforcement authority);
- details of the decision or act, or failure to decide or act, to which the proceedings relate;
- the result the appellant is seeking;
- the grounds on which the appellant relies; and
- any further information or documents required by a practice direction.

130. Completed notices of appeal should be sent to:

General Regulatory Chamber
HM Courts and Tribunal Service
PO Box 9300
Leicester
LE1 8DJ

⁴⁶ hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2800

⁴⁷ hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2597

The General Regulatory Chamber can be contacted on 0300 123 4504 and at: grc@hmcts.gsi.gov.uk. Staff cannot give advice about individual cases but can assist with process queries.

131. Once submitted, the completed notice will be sent by the Tribunal to the enforcement authority, which is referred to as ‘the respondent’. At this point the respondent will have 28 days after the date of receipt to file a response. Their response must include the following:

- The name and address of the respondent (the enforcement authority);
- The name and address of the respondent’s representative (if any);
- An address for the service of documents;
- Any further information or documents required by a practice direction or direction;
- Whether the respondent would be content for the case to be dealt with without a hearing; and
- A statement as to whether the respondent opposes the appellant’s case and, if so, the grounds for such opposition.

132. The response must be sent to the appellant (the landlord) as well as to the Tribunal. If the response is provided outside of the 28 day limit the respondent must include a request for an extension of time and the reason why the response is late.

133. Under rule 24 of the GRC Rules the appellant (the landlord) may provide a reply to the respondent’s (the enforcement authority) response at this point if they wish. If they intend to do so, this must be provided to the Tribunal and the respondent within 14 days. After this point the administrative team will normally refer the appeal to the Registrar or to the Chamber President.

134. Full details and guidance on the process can be found [here](#)⁴⁸.

135. Based on the facts of the case, the First-tier Tribunal may decide to quash the penalty notice or affirm the penalty notice in its original or a modified form. If the penalty notice is quashed the enforcement authority must reimburse the landlord for any amount paid as a financial penalty under the notice.

⁴⁸ www.gov.uk/courts-tribunals/first-tier-tribunal-general-regulatory-chamber

Frequently Asked Questions Relevant to Chapter Six

Q: Who will be enforcing these regulations?

A: The domestic regulations will be enforced by Local Authorities; each authority will develop their own approach to the enforcement of the Regulations. Using the powers granted to them by the *Energy Efficiency (Private Rented Property) Regulations 2015*.

Q: Is there an appeals process regarding penalties and how long will the process take?

A: Yes. Appeals concerning penalties are initially to be made to the relevant Local Authority. If the Local Authority upholds a penalty notice on appeal, the landlord has a right to appeal to the First Tier Tribunal (General Regulatory Chamber).

Q: Do Local Authorities have discretion regarding the levying of penalties, whether to issue a penalty notice in the first place or the level of the fine imposed? (Section 42 (2)). If so will there be stated differences in the approach to enforcing these Regulations?

A: The Regulations set out the maximum level of fines/penalties that can be levied. However Local Authorities do have discretion to determine the level of fines in each case.

Q: What is the amount I could be fined for non-compliance with these regulations?

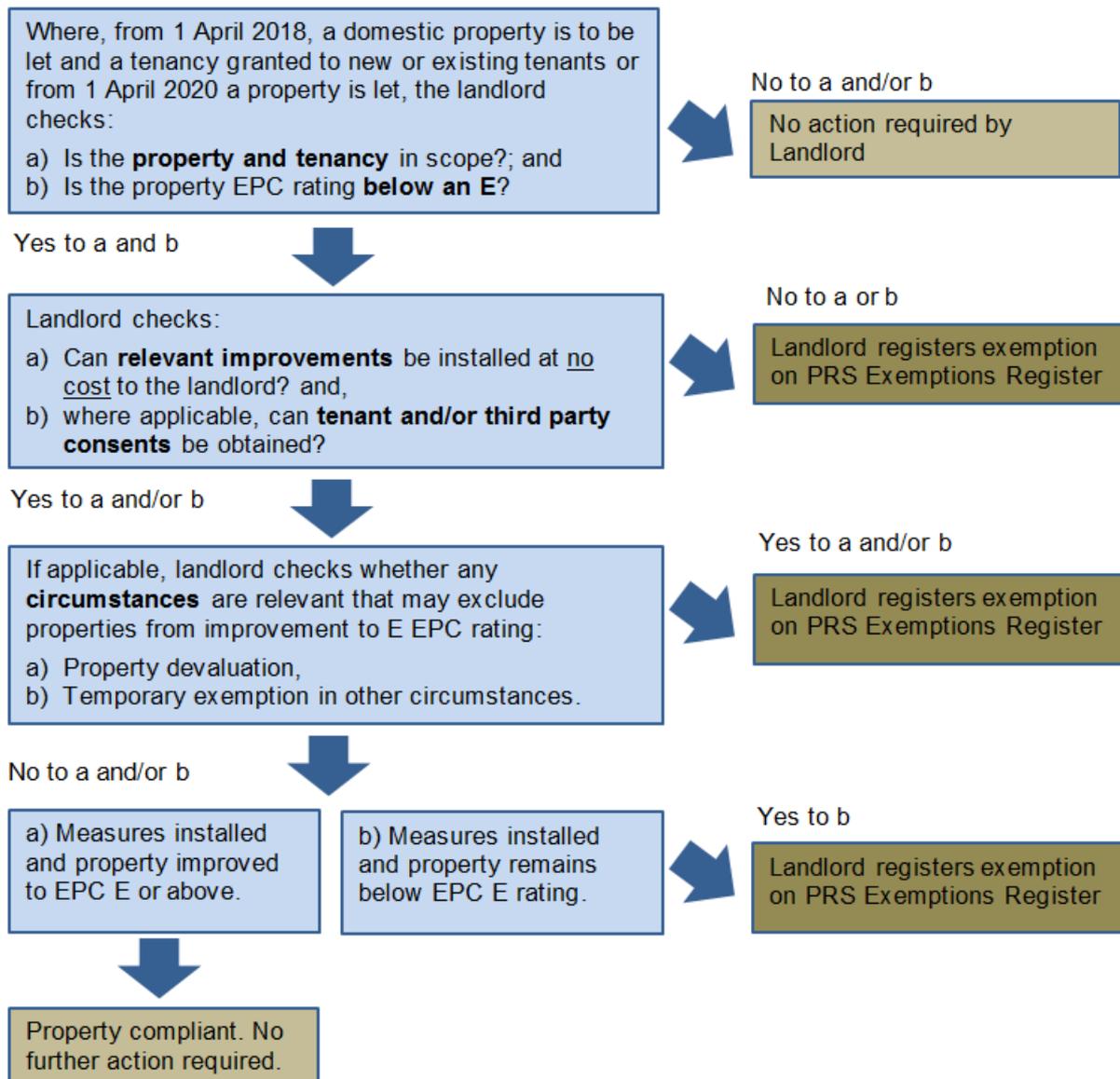
A: Each individual infringement is penalised in the following manner:

- Renting out a non-compliant property and the landlord is less than three months in breach): up to £2,000 and/or publication penalty;
- Three months or more in breach: up to £4,000 and/or publication penalty;
- Providing false or misleading information the PRS Exemption Register: up to £1,000 and/or Publication Penalty;
- Failure to comply with a compliance notice: up to £2,000 and/or Publication penalty.

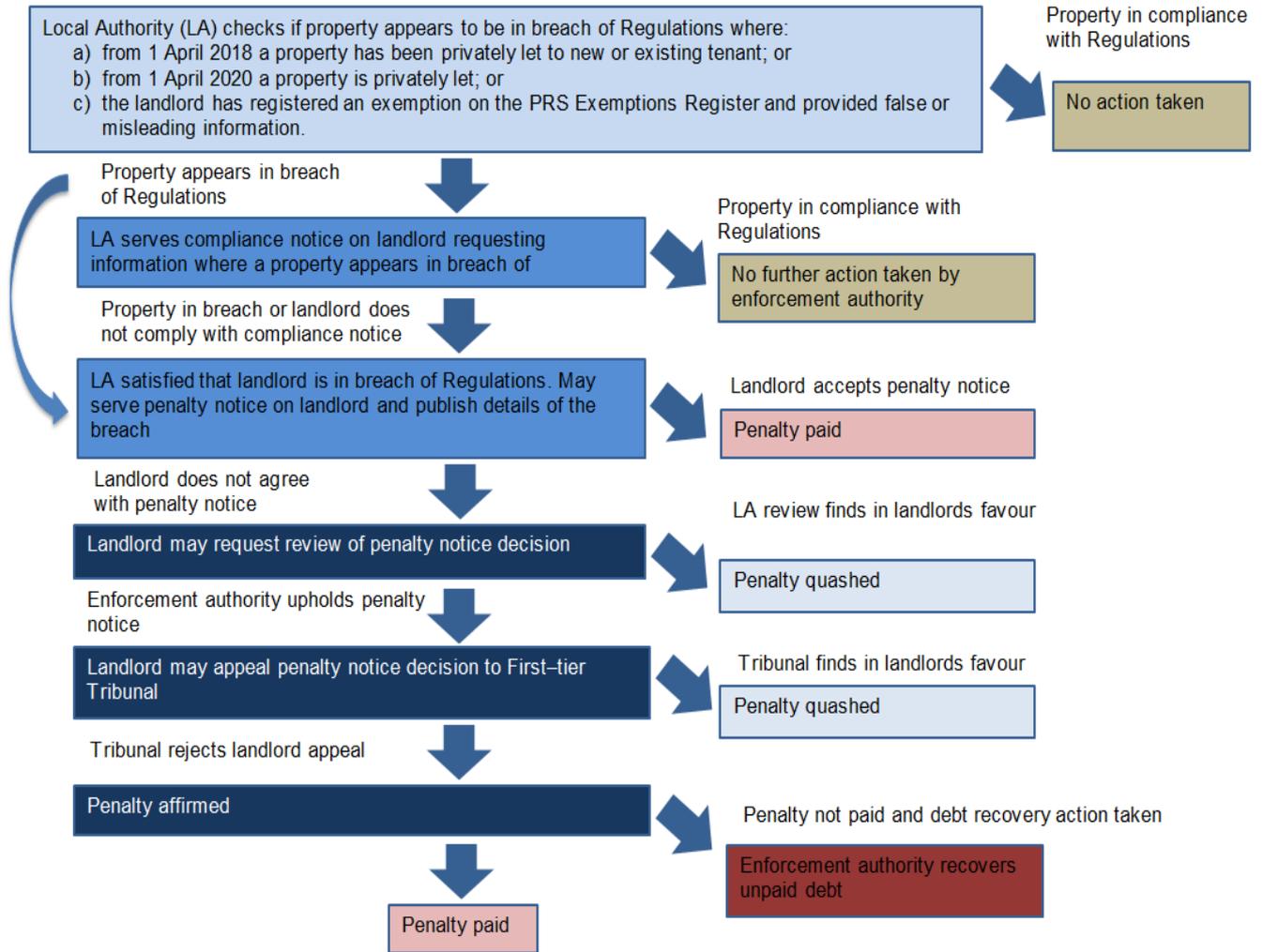
There is a maximum level of penalty which applies to each property. This is set at £5,000. This means that if, for instance, a landlord is fined £2,000 for being in breach of the Regulations for less than three months, and they continue to let the property below the minimum standard after three months, the most they can be fined for a three months or more breach, will be £3,000. £5,000 in total.

Appendix A

Minimum Level of Energy Efficiency Provisions Flow Chart



Compliance and Enforcement Flow Chart



Appendix B

Information on Common Tenancy Types

Assured tenancies

In a majority of cases, rented residential accommodation in England and Wales will be let under an assured shorthold tenancy. This is the main type of assured tenancy in use in the private rented sector.

An assured tenancy is the letting of a dwelling which is occupied as the tenant's only or principal home (or by at least one of them if there are joint tenants). The tenant or tenants must be individuals – i.e. not corporate bodies. A tenancy can move in and out of assured status depending on whether the required conditions for an assured tenancy are currently met.

A dwelling let under an assured tenancy may be a self-contained unit such as a house or flat but for the property to qualify as a dwelling the tenant need only have exclusive occupation of at least one room, such as a bedsit, even though it is non self-contained and the tenant shares other accommodation with other tenants. Non self-contained accommodation of this kind is not required to have an EPC so it will be outside the scope of the Regulations, unless it is part of a building which itself is required to have an EPC, e.g. because the building itself has been build, sold, or let out as a single property within the past ten years.

A tenancy is granted when it is entered into, i.e. when a binding contract exists between the landlord and the tenant, even though the date on which the tenant is permitted to take up possession of the property is subsequent to the date on which the tenancy is entered into. Where an assured tenancy (whether shorthold or not) is granted on or after 1st April 2018, or such a tenancy continues at any time after 1st April 2020, then if the minimum E rating required is not achieved the prohibition on letting sub-standard properties applies where the property is otherwise within the scope of the Regulations (unless an exemption applies).

Regulated Tenancies

Regulated tenancies, often referred to as Rent Act protected tenancies, were the main form of letting in the private rented sector before the introduction of assured tenancies in January

1989. New Rent Act protected tenancies cannot be created except in very limited exceptions. For this reason their number is gradually reducing, but as they are often unmodernised/unimproved properties, it is likely that there will be a relatively higher number of properties let under Rent Act protected tenancies which have poor levels of energy efficiency. Where a property let on a regulated tenancy has been let continuously to the same tenant since before 2008 (when EPCs were introduced), it is possible that the property will not have an EPC (and will not be legally required to have one). In this case the property will be excluded from the need to meet the minimum standard and no further action will be required. However, where an event has occurred post 2008 which triggered the need to obtain an EPC (for instance a sale or new tenancy), the property will be covered by the minimum standard. If the EPC rating is F or G, improvements will be required by April 2020 at the latest, or sooner where a new tenancy is granted.

Regulated tenancies will normally will take the form of what is called a “statutory tenancy” (not to be confused with statutory periodic tenancies which run on once a fixed term assured tenancy (including a shorthold) has come to an end). In many cases a ‘fair rent’ will be registered by the Rent Officer fixing the amount of rent payable. The rule preventing the creation of new Rent Act protected tenancies does not apply in limited cases where a new tenancy is granted to someone who is already a Rent Act protected tenant. This can apply whether the tenancy relates to the same or a different property.

Where there is a regulated tenancy protected by the Rent Act, if the sole tenant dies there is provision for statutory succession. His or her surviving spouse (or civil partner) becomes the successor statutory tenant provided that he or she occupies the property as his or her residence. This extends to unmarried partners living together as if they were husband and wife, partners in a same-sex marriage, or civil partners. This is called transmission of the statutory tenancy. As this is in effect a transfer of the existing tenancy it does not amount to the grant of a tenancy so if it were to happen before 1st January 2020 it would remain outside the scope of the Regulations but would, of course, be subject to the Regulations as a continuing tenancy as from 1st January 2020 (assuming there was a legal requirement for an EPC to be in place).

Properties let under licence

For the Regulations to apply, there must be a tenancy in place; and not a licence. The tenancy/licence distinction is not an easy one and if you are unsure you need to take your own legal advice. Broadly speaking, there will be a licence and not a tenancy where the agreement is with a lodger, i.e. the owner needs to enter the accommodation itself to provide services which he/she is required to provide under the agreement. Likewise, where the occupier shares accommodation with the owner this will probably be a licence agreement.

If a licence is granted to an employee under a service occupancy where the employee is required to occupy the accommodation for the better performance of his/her duties, e.g. a caretaker, this will not fall within the scope of the non domestic PR regime either so long as a licence exists as opposed to a tenancy (if there is a letting to an employee however the position may be different and this is an area on which advice will be required as to the specific circumstances applicable).

Appendix C

As discussed in chapter one, under certain circumstances, buildings may be exempt from the requirement to have an EPC where it may be demonstrated that they are to be demolished. This exemption is subject to a number of conditions as set out in Regulation 8 of the *Energy Performance of Buildings (England and Wales) Regulations 2012* as follows:

The Energy Performance of Buildings (England and Wales) Regulations 2012 Regulation 8

Buildings to be demolished

8.—(1) Regulations 6 and 7 do not apply in relation to a dwelling which is to be sold or rented out where the relevant person can demonstrate that—

- (a) the dwelling is suitable for demolition;
- (b) the resulting site is suitable for redevelopment;
- (c) all the relevant planning permissions, listed building consents and conservation area consents exist in relation to the demolition; and
- (d) in relation to the redevelopment—
 - (i) either outline planning permission or planning permission exists, or both; and
 - (ii) where relevant, listed building consent exists.

(2) Regulation 6 does not apply in relation to any prospective buyer or tenant of a building other than a dwelling which is to be sold or rented out where—

- (a) the relevant person can demonstrate that—
 - (i) the building is to be sold or rented out with vacant possession;
 - (ii) the building is suitable for demolition; and
 - (iii) the resulting site is suitable for redevelopment; and
- (b) the relevant person believes on reasonable grounds that the prospective buyer or tenant intends to demolish the building.

(3) Regulation 7 does not apply in relation to a building other than a dwelling which is to be sold or rented out where the relevant person can demonstrate that—

- (a) the building is to be sold or rented out with vacant possession;
- (b) the building is suitable for demolition;
- (c) the resulting site is suitable for redevelopment;

(d) all the relevant planning permissions, listed building consents and conservation area consents exist in relation to the demolition; and

(e in relation to the development—

(i) either outline planning permission or planning permission exists, or both; and

(ii) where relevant, listed building consent exists.

Appendix D

Measures fundable under the *Green Deal Finance Mechanism - The Green Deal (Qualifying Energy Improvements) Order 2014 Schedule*

- (a) air source heat pumps;
- (b) biomass boilers;
- (c) biomass room heaters (with radiators);
- (d) cavity wall insulation;
- (e) chillers;
- (e(a) circular pumps;
- (f) cylinder thermostats;
- (g) draught proofing;
- (h) duct insulation;
- (i) gas-fired condensing boilers;
- (j) ground source heat pumps;
- (k) hot water showers;
- (l) hot water systems;
- (m) hot water taps;
- (n) external wall insulation systems;
- (o) fan-assisted storage heaters;
- (p) flue gas heat recovery devices;
- (q) heating controls for wet central heating systems or warm air systems;
- (r) heating ventilation and air-conditioning controls (including zoning controls);
- (s) high performance external doors;
- (t) hot water controls (including timers and temperature controls);
- (u) hot water cylinder insulation;
- (v) internal wall insulation systems (for external walls);
- (w) lighting systems, fittings and controls (including rooflights, lamps and luminaires);
- (x) loft or rafter insulation (including loft hatch insulation);
- (y) mechanical ventilation with heat recovery systems;
- (z) micro combined heat and power;
- (aa) micro wind generation;
- (bb) oil-fired condensing boilers;
- (cc) photovoltaics;
- (dd) pipework insulation;
- (ee) radiant heating;
- (ff) replacement glazing;
- (gg) roof insulation;
- (hh) room in roof insulation;
- (ii) sealing improvements (including duct sealing);
- (jj) secondary glazing;
- (kk) solar blinds, shutters and shading devices;

(ll) solar water heating;
(mm) transpired solar collectors;
(nn) under-floor heating;
(oo) under-floor insulation;
(pp) variable speed drives for fans and pumps;
(qq) warm-air units;
(rr) waste water heat recovery devices;
(ss) water source heat pumps.

Appendix E

The Building Regulations 2010

The Regulation 24(2) *wall insulation exemption* provides for an exemption where written expert advice can be provided indicating that a recommended wall insulation measure is, in fact, not appropriate for the property due to its potential negative impact on the fabric or structure of the property.

The regulations define the types of expert who are qualified to provide an opinion, but alternatively allow advice from an independent installer of the wall insulation system in question who meets the installer standards for that measure, as set out in Schedule 3 to the *Building Regulations 2010*. The details of schedule 3 are as follows:

Building Regulations 2010 SCHEDULE 3

Self-certification Schemes and Exemptions from Requirement to Give Building Notice or Deposit Full Plans

Regulations 12(6) (a) and 20(1)

England & Wales

<i>Column 1</i>	<i>Column 2</i>
<i>Type of Work</i>	<i>Person carrying out work</i>
1. Installation of a heat-producing gas appliance. This paragraph does not apply to the provision of a masonry chimney.	A person, or an employee of a person, who is a member of a class of persons approved in accordance with regulation 3 of the Gas Safety (Installation and Use) Regulations 1998 ² .
2. Installation of— (a) an oil-fired combustion appliance; or (b) oil storage tanks and the pipes connecting them to combustion appliances. This paragraph does not apply to the provision of a masonry chimney.	A person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited ³ , Blue Flame Certification Limited ⁴ , Building Engineering Services Competence Assessment Limited ⁵ , Certsure LLP ⁶ , NAPIT Registration Limited ⁷ , Oil Firing Technical Association Limited ⁸ or Stroma Certification Limited ⁹ .
3. Installation of a solid fuel-burning combustion appliance other than a biomass appliance. This paragraph does not apply to the provision of a masonry chimney.	A person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, HETAS Limited ¹⁰ , NAPIT Registration Limited, Oil Firing Technical Association Limited or Stroma Certification Limited.
4. Installation of a heating or hot water system, or its	A person, or an employee of a person, who is a

associated controls.	member of a class of persons approved in accordance with regulation 3 of the Gas Safety (Installation and Use) Regulations 1998, or a person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited, Benchmark Certification Limited ¹¹ , Blue Flame Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, HETAS Limited, NAPIT Registration Limited, Oil Firing Technical Association Limited or Stroma Certification Limited.
5. Installation of a mechanical ventilation or air conditioning system or associated controls, in a building other than a dwelling, that does not involve work on a system shared with parts of the building occupied separately.	A person registered in respect of that type of work by Blue Flame Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.
6. Installation of an air conditioning or ventilation system in a dwelling, that does not involve work on a system shared with other dwellings.	A person registered in respect of that type of work by Blue Flame Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.
7. Installation of an energy efficient lighting system or electric heating system, or associated electrical controls, in buildings other than dwellings.	A person registered in respect of that type of work by Blue Flame Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.
8. Installation of fixed low or extra-low voltage electrical installations in dwellings.	A person registered in respect of that type of work by [...]12 Benchmark Certification Limited, Blue Flame Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, NAPIT Registration Limited, Oil Firing Technical Association Limited or Stroma Certification Limited.
9. Installation of fixed low or extra-low voltage electrical installations in dwellings, as a necessary adjunct to or arising out of other work being carried out by the registered person.	A person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited, Benchmark Certification Limited, Blue Flame Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.
10. Installation, as a replacement, of a window, rooflight, roof window or door in an existing dwelling.	A person registered in respect of that type of work by BM Trada Certification Limited ¹³ , [...]12 Certsure LLP, by Fensa Limited ¹⁴ under the Fenestration Self-Assessment Scheme, by NAPIT Registration Limited, Network VEKA Limited ¹⁵ or Stroma Certification Limited.
11. Installation, as a replacement, of a window, rooflight, roof window or door in an existing building other than a dwelling. This paragraph does not apply to glass which is load bearing or structural or which	A person registered in respect of that type of work by BM Trada Certification Limited, Blue Flame Certification Limited, CERTASS Limited, Certsure LLP, by Fensa Limited under the Fenestration

forms part of glazed curtain walling or a revolving door.	Self-Assessment Scheme, by NAPIT Registration Limited, Network VEKA Limited or Stroma Certification Limited.
12. Installation of a sanitary convenience, sink, washbasin, bidet, fixed bath, shower or bathroom in a dwelling, that does not involve work on shared or underground drainage.	A person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited, Benchmark Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, HETAS Limited, NAPIT Registration Limited or Stroma Certification Limited.
13. Installation of a wholesome cold water supply or a softened wholesome cold water supply.	A person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited, Benchmark Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, HETAS Limited, NAPIT Registration Limited or Stroma Certification Limited.
14. Installation of a supply of non-wholesome water to a sanitary convenience fitted with a flushing device, that does not involve work on shared or underground drainage.	A person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited, Benchmark Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, HETAS Limited, NAPIT Registration Limited or Stroma Certification Limited.
15. Installation in a building of a system to produce electricity, heat or cooling— (a) by microgeneration; or (b) from renewable sources (as defined in Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources) ¹⁶ .	A person registered in respect of that type of work by Association of Plumbing and Heating Contractors (Certification) Limited, Benchmark Certification Limited, Building Engineering Services Competence Assessment Limited, Certsure LLP, HETAS Limited, NAPIT Registration Limited, Oil Firing Technical Association Limited or Stroma Certification Limited.
16. Installation, as a replacement, of the covering of a pitched or flat roof and work carried out by the registered person as a necessary adjunct to that installation. This paragraph does not apply to the installation of solar panels.	A person registered in respect of that type of work by NAPIT Registration Limited or the National Federation of Roofing Contractors Limited ¹⁷ .
17. Insertion of insulating material into the cavity walls of an existing building.	A person registered in respect of that type of work by Blue Flame Certification Limited, CERTASS Limited, The Cavity Insulation Guarantee Agency ¹⁸ under the Cavity Wall Insulation Self-Certification Scheme, by Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.
18. Installation of insulating material to the internal walls of a building, not including the installation of flexible thermal linings.	A person registered in respect of that type of work by Blue Flame Certification Limited, British Board of Agrément ¹⁹ , CERTASS Limited, Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.
19. Installation of insulating material to the external walls of a building, not including insulation of	A person registered in respect of that type of work by Blue Flame Certification Limited, British Board of

demountable-clad buildings.	Agrément, CERTASS Limited, Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.
20. Installation of insulating material to the external and internal walls of a building (“hybrid insulation”), not including insulation of demountable-clad buildings, and not including the installation of flexible thermal linings.	A person registered in respect of that type of work by Blue Flame Certification Limited, British Board of Agrément, CERTASS Limited, Certsure LLP, NAPIT Registration Limited or Stroma Certification Limited.

Notes

- 1 Table substituted by Building (Amendment) (Wales) Regulations 2015/1486 Sch.1 para.1 (July 31, 2015)
- 2 S.I. 1998/2451.
- 3 A company formed and registered under the Companies Acts (as defined in section 2 of the Companies Act 2006, c. 46) with the registration number 02876277.
- 4 A company formed and registered under the Companies Acts with the registration number 05182566.
- 5 A company formed and registered under the Companies Acts with the registration number 03712932.
- 6 A limited liability partnership formed and registered under the Limited Liability Partnerships Act 2000 (c. 12) with the registration number OC379918.
- 7 A company formed and registered under the Companies Acts with the registration number 05190452.
- 8 A company formed and registered under the Companies Acts with the registration number 02739706.
- 9 A company formed and registered under the Companies Acts with the registration number 06429016.
- 10 A company formed and registered under the Companies Acts with the registration number 02117828.
- 11 A company formed and registered under the Companies Acts with the registration number 07144771.
- 12 Words revoked by Building Regulations &c. (Amendment) (Wales) Regulations 2016/611 reg.2(22) (June 17, 2016)
- 13 A company formed and registered under the Companies Acts with the registration number 02110046.
- 14 A company formed and registered under the Companies Acts with the registration number 03058561.
SI 2010/2214 Page 177
- 15 A company formed and registered under the Companies Acts with the registration number 04029350.
- 16 OJ No. L 140, 5.6.2009, p. 16, Article 2.
- 17 A company formed and registered under the Companies Acts with the registration number 02591364.
- 18 A company formed and registered under the Companies Acts with the registration number 03044131.
- 19 A company formed and registered under the Companies Acts with the registration number 00878293.

Notes

- 1 Table substituted by Building Regulations &c. (Amendment) Regulations 2015/767 Sch.1 para.1 (April 18, 2015)
- 2 A company formed and registered under the Companies Acts (as defined in section 2 of the Companies Act 2006, c.46) with the registration number 02876277.
- 3 A company formed and registered under the Companies Acts with the registration number 05182566.
- 4 A company formed and registered under the Companies Acts with the registration number 03712932.
- 5 A limited liability partnership formed and registered under the Limited Liability Partnerships Act 2000 (c.12) with the registration number OC379918.
- 6 Words revoked by Building Regulations &c. (Amendment) Regulations 2016/285 reg.2(19)(a) (April 6, 2016)
- 7 A company formed and registered under the Companies Acts with the registration number 05190452.
- 8 A company formed and registered under the Companies Acts with the registration number 02739706.
- 9 A company formed and registered under the Companies Acts with the registration number 06429016.
- 10 Words revoked by Building Regulations &c. (Amendment) Regulations 2016/285 reg.2(19)(b) (May 1, 2016)
- 11 A company formed and registered under the Companies Acts with the registration number 02110046.
- 12 A company formed and registered under the Companies Acts with the registration number 03058561.
- 13 A company formed and registered under the Companies Acts with the registration number 04029350.
- 14 OJ No L218, 5.6.2009, p.16, Article 2.
- 15 A company formed and registered under the Companies Acts with the registration number 02591364.
- 16 Word revoked by Building Regulations &c. (Amendment) Regulations 2016/285 reg.2(19)(c) (April 6, 2016)
- 17 A company formed and registered under the Companies Acts with the registration number 03044131.
- 18 A company formed and registered under the Companies Acts with the registration number 00878293.



