Minimum Energy Efficiency Standards – Frequently Asked Questions

These Frequently Asked Questions relate to the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and have been collated from the Government’s domestic landlord guidance, which can be downloaded or read here.

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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.

If a fixed-term Assured Shorthold Tenancy ends and turns into a statutory periodic tenancy this is considered a “new tenancy” and the MEES regulations will apply after April 2018. If the fixed-term AST ends and turns into a contractual periodic tenancy (as in the new NLA AST available now), this is not considered a new tenancy and so the MEES regulations will not apply.

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](#). 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.

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](#).

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 built, 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. Are listed buildings automatically exempt from these regulations?

A. There is a common misunderstanding regarding listed buildings and whether they are exempt from the 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 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 standards. An EPC is not currently required for a listed property or building within a conservation area when it is sold or rented in so far as compliance with minimum energy performance requirements would unacceptably alter its character or appearance.

Examples of energy performance measures which may alter character or appearance (or as a minimum are likely to require local authority planning permission to install on a listed building) include solid wall insulation, replacement glazing, solar panels, or an external wall mounted air source heat pump. Where character or appearance would not be altered by compliance with energy performance requirements, an EPC may be legally required.
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 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: My property does not require an EPC but I obtained one voluntarily. Do I have to comply with the minimum standards?

A: 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.

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.

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.

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.

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 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.

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.

Frequently Asked Questions Relevant to Chapter Four

Q. What exemptions are available for landlords of properties with an EPC rating of F or G?

A. There are only a few exemptions to the regulations that landlords can use. Landlords seeking to make use of one of the following exemptions must ensure it is registered on the PRS Exemptions Register, operated by the Government, which opens on 1st October 2017:

• They have undertaken all “relevant energy efficiency improvements” but the property remains below an E, or no such improvements can be made to the property. A “relevant energy efficiency improvement” is one which:
o Is listed in the Green Deal (Qualifying Energy Improvements) Order 2012 and has been identified as a recommended improvement for that property in a green deal report, a recommendation report, or a report prepared by a surveyor, and
o Can be wholly financed, at no cost to the landlord, by means of funding provided by central government, a local authority, or any other person.

- The landlord requires consent from the tenant/s, and the occupying tenant/s withhold that consent.
- The landlord has only recently become the landlord for the property
- Third party consent is required for the requested improvements but this consent cannot be obtained (e.g. planning permission or consent from mortgage lender).
- Measures required to improve the property are evidenced by a suitably qualified independent surveyor as expected to cause a capital devaluation of the property of more than 5%. Only those measures that are expected to cause such devaluation would be exempt from installation.
- The landlord has obtained a written opinion, from a suitably qualified person or from the independent installer engaged to install the measure, advising that it is not an appropriate improvement due to its potential negative impact on the fabric or structure of the property (or the building of which it is part). This exemption is only in relation to wall insulation.

Each exemption, once registered on the PRS Register, is valid for 5 years except for two:

- Where a landlord has recently become the landlord of the property that exemption is only valid for 6 months.
- Where a tenant has withheld consent for energy efficiency improvements that exemption is only valid until that tenant’s tenancy ends (or after 5 years, whichever is sooner).

Exemptions 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, 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.

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.

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 PRSRegisteraccess@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.

Q: What evidence do I need to supply to register a “no cost” exemption on the PRS Exemptions Register?

A. When registering a ‘no cost’ exemption on the PRS Exemptions Register a landlord may provide a self-certified narrative explanation for why no suitable 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.

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.