Department for Business, Energy & Industrial Strategy

THE NON-DOMESTIC PRIVATE RENTED PROPERTY MINIMUM STANDARD

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

February 2017

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Note on the Regulations and Guidance

This document provides interpretation and guidance for landlords, enforcement authorities and others with an interest in the non-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 non-domestic property. This guidance is intended to help landlords to meet their obligations around the PRS minimum standards provisions. However, it is not legally binding and 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. Therefore, if landlords or others involved in the letting of non-domestic private rented property have any concerns regarding how the Regulations affect their business 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 on the Secretary of State in the Energy Act 2011 to introduce Regulations to improve the energy efficiency of buildings in the domestic and non-domestic private rented sector situated 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 has been published on the gov.uk website and includes a summary of views received on the consultation, and the Government's decisions on how the Regulations will operate. The non-domestic consultation and Government response is available here[3].

[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-non-domestic

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Glossary

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 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 compliance with the Regulations.

Freeholder –a person which owns the freehold of a property.

Green Deal – a government backed initiative that can help provide property specific advice on the energy-saving improvements which can be made to a property, and identify the best way to pay for them.

Landlord – a person or entity who lets, or proposes to let, a non-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 contractual arrangement under which a tenant pays a landlord (generally the owner) for use of an asset, in this case a non-domestic property (which may be either a building, or a unit within a building). Lease has the same meaning as tenancy.

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.

Local Weights and Measures Authorities – the enforcement authorities for Part Three of the Regulations, as they relate to non-domestic properties.

The Minimum Level of Energy Efficiency – the prescribed minimum EPC band (band E) allowed under the Regulations for non-domestic private rented property which is let (including renewal) from 1 April 2018 or which continues to be let from 1 April 2023, 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.

Non-domestic private rented property – any privately rented property that is not a dwelling, meaning a building or part of a building occupied or intended to be occupied as a separate dwelling. A property may be a whole building, or may be a unit within a building. (The meaning of non-domestic private rented property is set by Regulation 20(1), as defined by section 42(1)(b) of the Energy Act 2011.)

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 non-domestic landlords from 1 April 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 by 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 – non-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.

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

Introduction

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

The energy we use for heating and powering our non-domestic buildings is responsible for around 12% of the UK's emissions. Around 60% of today's non-domestic buildings will still exist in 2050, representing around 40-45% of the total floor space[4]. Whilst standards to tackle the performance of new buildings have been in place for some time, minimum standards to drive improvements in the performance of the existing stock through energy efficiency upgrades are essential going forward to tackle energy used and reduce emissions across the non-domestic stock.

The *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* (henceforth "the Regulations") are designed to tackle the very least energy efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). These properties waste energy – not only contributing to the country's greenhouse gas emissions, but also an unnecessary cost on business and the wider economy. The Regulations establish a minimum standard for both domestic and non-domestic privately rented property; this guidance relates to non-domestic property only.

Increasing the energy efficiency of our non-domestic stock can help smooth seasonal peaks in energy demand, and thereby increase our energy security. 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 measures. Greater competition within these markets may also spur innovation, lowering the end costs of installing measures to business and households, and help sustain jobs.

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[4] For more information see *the Non-domestic National Energy Efficiency Data-Framework: energy statistics 2006-12* report at: www.gov.uk/government/statistics/non-domestic-national-energy-efficiency-data-framework-energy-statistics-2006-12

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 non-domestic private rented sector, Part 3 of the Regulations contains the minimum level of energy efficiency provisions, which is currently set at an energy performance certificate (EPC) rating of at least **band E**. As band E is a minimum, landlords who are installing relevant energy efficiency improvements may also wish to aim above and beyond the current requirement in order to achieve greater energy savings.

The minimum level of energy efficiency provisions will mean that, subject to certain requirements and exemptions:

a) from 1 April 2018, landlords of non-domestic private rented properties (including public sector landlords) may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G (shown on a valid Energy Performance Certificate for the property).
b) from 1 April 2023, landlords must not continue letting a non-domestic property which is already let if that property has an EPC rating of band F or G.

In both cases this is referred to 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 first need to ensure that energy efficiency improvements are made which raise the rating to a minimum of E. In certain, limited, circumstances landlords may be able to claim an exemption from this prohibition on letting sub-standard property, this includes situations where all improvements which can be made have been made, and the property remains below an E. Where a valid exemption applies, landlords must register the exemption on the database set up for this purpose – the PRS Exemptions Register. Full details of exemptions, and the exemptions register, are set out in chapters 3 and 4 of this guidance.

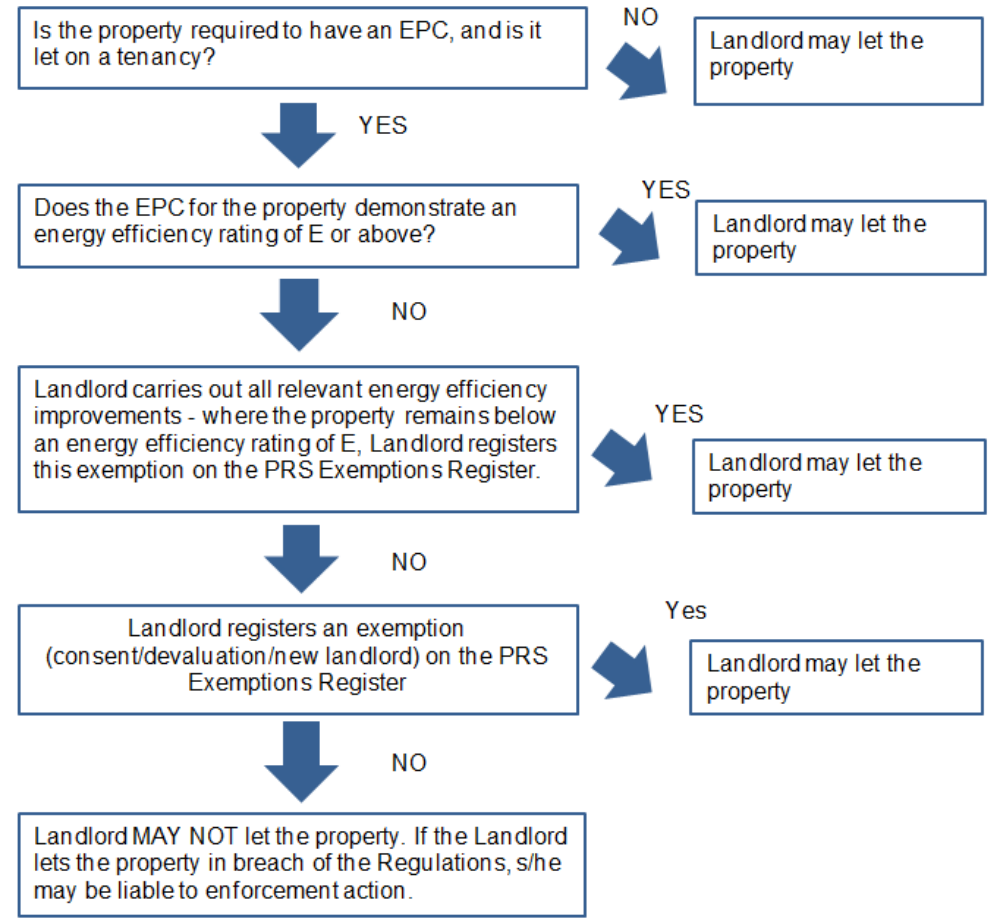
The Regulations cross refer to, and interact with, other existing regulations, including the *Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2007*, the *Building Regulations 2010* and the *Energy Performance of Buildings (England and Wales) Regulations 2012.* PDFs of these related regulations can be found here[5], here[6] and here[7].

[5] www.legislation.gov.uk/uksi/2007/991/pdfs/uksi_20070991_en.pdf
[6] www.legislation.gov.uk/uksi/2010/2214/pdfs/uksi_20102214_en.pdf
[7] www.legislation.gov.uk/uksi/2012/3118/pdfs/uksi_20123118_en.pdf

Minimum Standards Compliance Decision Process

Figure 1 below sets out the steps that a landlord will need to consider in order to 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.

Landlords of non-domestic property which is not legally required to have an EPC are not bound by the prohibition on letting Sub-Standard Property. Please see section 1.3 in chapter one for further details on EPC requirements and exemptions.

Enforcement of the Minimum Level of Energy Efficiency

Local Weights and Measures Authorities will enforce the minimum standards. 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 an enforcement authority is satisfied that a property has been let in breach of the Regulations it may serve a penalty notice on the landlord imposing financial penalties. The authority may also publish details of the breach. The landlord may ask the enforcement authority to review the penalty notice and where it is upheld on review, the landlord may then appeal the penalty notice to the First-tier Tribunal. Details of this process are set out at section 5.3 in chapter five.

Review of Regulations

Regulation 4 requires the Secretary of State to carry out a review at least every five years, including on whether the Regulations are achieving their objectives and whether they could be made more effective. A report containing the conclusions of the review will be published.

Note on the Green Deal

The 2015 Regulations make reference to the Green Deal, and Green Deal Finance. Green Deal was an energy efficiency policy and finance mechanism under the 2010-2015 coalition Government.

As Green Deal Finance is an allowable funding option within the Regulations, this guidance document does make infrequent reference to it for completeness. However, in practice the availability of the finance was never extended to non-domestic property, therefore at the time of publication, references to Green Deal in this guidance should be considered non applicable.

Chapter 1: How the Regulations Apply to Non-Domestic Property

The minimum level of energy efficiency provisions described in this guidance are designed to ensure that, unless an exemption applies, a non-domestic private rented property must not be let where its energy performance indicator is below the set minimum level of energy efficiency. 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 non-domestic landlords and outlines the steps landlords will need to take in order to ensure that their property complies with the minimum level of energy efficiency provisions. Enforcement authorities and others with an interest in non-domestic rented property will also find this information useful.

1.1 Non Domestic PRS scope

1.1.1 Properties covered by the minimum level of energy efficiency provisions **(Regulation 20(1))**

1. The provisions discussed in this guidance document apply to all non-domestic properties (i.e. properties that are not a dwelling[8]) in England and Wales which are let under *any* type of tenancy and which are legally required to have an Energy Performance Certificate (EPC) (see section 1.3 below). As

[8] The meaning of non-domestic private rented property is contained in **Regulation 20(1)**, by reference to section 42(1)(b) of the *Energy Act 2011*.

the PRS Regulations only apply to properties which are let under a tenancy, non-domestic properties which are occupied under other arrangements, for example properties let on licence, or 'agreement for lease' arrangements, are unlikely to be required to meet the minimum standard.

2. The Regulations (**Regulation 20(3)**) also state that a non-domestic PRS property will not be required to meet the minimum standard if it is let on a tenancy which is:
   a. granted for a term certain (the original term or time period granted by a tenancy) not exceeding 6 months (unless the tenancy agreement contains provision for renewing the term or extending it beyond 6 months from its beginning, or, at the time it is granted, the tenant has been in occupation for a continuous period of more than 12 months); or
   b. granted for a term certain of 99 years or more.

3. These two specific exclusion conditions were set to avoid capturing very short, flexible leases often used by small and medium-size enterprise (SME) occupiers, and very long tenancies where the tenant's long-term possession of the property makes them more akin to a buyer than a tenant. Regardless of these exclusions, landlords of such properties may still choose to improve the EPC rating to an E or higher if they wish, to enable the property to benefit from energy efficiency savings.

1.1.2 Meaning of "landlord" and "tenant" (**Regulation 21**)

4. In the Regulations a **landlord** is a person who lets, or proposes to let, a non-domestic private rented property. The Regulations do not make a distinction between different types of landlord, therefore non-domestic properties let by local authorities or public bodies will be covered by the minimum standard.

5. A **tenant** means a person to whom a non-domestic property is let. A superior landlord is someone who is the landlord of someone who is themselves a landlord.

1.1.3 Meeting the minimum standard, and sub-standard Property (Regulation 22)

6. Where a non-domestic private rented property is legally required to have an Energy Performance Certificate (EPC), it will meet the minimum standards required by the PRS Regulations where, from the trigger dates set out below at 1.2.1, it has a valid EPC which states 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 PRS Regulations.

7. 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).

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

1.2.1 Prohibition on letting sub-standard property **(Regulation 27)**

8. The non-domestic minimum standard will be introduced in a phased manner, with triggers from 1 April 2018, and a backstop date on 1 April 2023. From 1 April 2018 landlords must not let any such sub-standard non-domestic property to **new tenants**, or renew or extend an existing tenancy agreement with **existing tenants**, unless either:

    a. an exemption applies which has been registered on the PRS Exemptions Register; or

    b. 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 PRS Exemptions Register.

9. Then, from 1 April 2023, landlords must not **continue to let** a sub-standard non-domestic property to existing tenants (even where there has been no tenancy renewal, extension or indeed new tenancy) or to new tenants, unless:

    a. an exemption applies and has been registered; or

    b. 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.

10. Therefore, where a landlord intends to let a non-domestic property (or from 1 April 2023, 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 at section 1.1 above), and, if so, whether the EPC rating is at E or above (as discussed at section 1.1.3 above).

11. Landlords should be aware that nothing in the Regulations interferes with the rights, validity or enforcement of a tenancy under any other regulations, such as the *Landlords and Tenants Act 1954*. For example, in instances where a

non-domestic tenancy benefits from the protection of Part 2 of the *Landlord and Tenant Act 1954,* the tenant has a right of renewal at the end of the lease term[9], unless one or more of the grounds for the landlord to refuse a new tenancy under Section 30 of the *Landlord and Tenant Act 1954* apply.

12. In such cases the landlord may not refuse consent to the lease renewal on the basis that the property is sub-standard. Likewise, tenants may not use a landlord's failure to comply with the minimum energy efficiency standards as a reason to prematurely terminate their lease. Where, after 1 April 2018, the tenancy is being renewed or extended, or a new tenancy is being granted, and the property is at EPC F or G, the landlord should either improve the property to at least an E, or register an exemption, should one apply. (In situations where a new lease is granted in accordance with Part 2 of the *Landlord and Tenant Act 1954*, and where the property to be let is below an EPC E, the landlord may be eligible for a temporary, six month exemption from the requirement to improve the property to an E. Please see section 3.1.3 in chapter three of this guidance for more information.)

13. If a landlord or tenant is in any doubt about tenancy renewal rights in relation to any tenancy to which they are a party, they should seek the appropriate legal advice at an early stage to ensure they are able to comply with all of their obligations. Similarly, if a landlord is in any doubt about whether a particular ongoing tenancy arrangement would count as a renewal of tenancy for the purposes of the Regulations, they should seek appropriate legal advice.

1.2.2 Subletting of Non-Domestic Property

14. The responsibility in the PRS Regulations not to let a non-domestic property unless the minimum standard is met applies to any person who lets, or proposes to let, a non-domestic PR property. If the original lease allows a tenant to sublet the property, and that tenant proposes to enter into a sublease 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.

15. In the case of a subletting, an original tenant/new landlord is likely to require superior landlord consent for any improvements which may be required (the provisions in the Regulations for an exemption where third party consents are refused - such as superior landlord consent – mean that the ability to sublet

[9] The 1954 Act provides that a tenant carrying on a business usually has the right to renew its lease of the premises that it occupies for the purposes of that business, unless the tenancy has been specifically excluded from the security of tenure provisions. If the statutory renewal process in the Act has not yet been triggered by the lease expiry date, the lease will continue automatically and the tenant can remain in occupation on the same terms. Should the tenant then wish to vacate, it may do so on giving at least three months' notice (as provided by the 1954 Act).

will not be affected if superior landlord consent cannot be obtained). It should be noted that after 2023, there is a continuing obligation on all non-domestic landlords to ensure the minimum standards are met.

16. The extent to which a tenant may sublease a property will necessarily depend on the provisions of their original lease. Even where subletting is permitted, the lease 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 lease, and seek their own advice, when considering their rights and responsibilities under their lease.

17. 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.

1.2.3 Mixed Use Properties and Tenancy Types

18. There will be situations where a landlord will be a landlord of a property which includes a mix of commercial and residential 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.

19. The minimum standards will 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[10].

[10] 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 a 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

20. 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 treated accordingly[11].

21. If a property is let under any type of tenancy but is *not* considered a "dwelling", then it will be considered a non-domestic building for the purposes of the Regulations[12], and will need to comply with the minimum standards. In all cases it will be for the landlord to check their lease 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 category. Landlords may also wish to discuss any concerns with the relevant enforcement authority before determining any course of action.

1.3 Energy Performance Certificate (EPC) ratings

1.3.1 EPC Overview

22. As noted at the start of this chapter, the minimum standards provisions only apply to those non-domestic properties which are legally required to have an **Energy Performance Certificate (EPC)**. This includes individual properties, such as retail units situated within larger buildings, which are required to have their own individual EPC. Given this, a private rented property is covered by the minimum energy efficiency provisions if it is required to have an EPC by any of the following:

- The *Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007*[13],
- The *Building Regulations 2010*,
- The *Energy Performance of Buildings (England and Wales) Regulations 2012*.

their property is outside of the scope of the minimum standard. See Chapter five for further information on compliance notices.

[11] The domestic minimum standards have some different implementation dates and different funding provisions to the non-domestic minimum standards which landlords will need to be aware of. Separate guidance on domestic minimum standard compliance will be published in due course.

[12] A "dwelling" is defined as a "building or part of a building occupied or intended to be occupied as a separate dwelling".

[13] The 2007 regulations have been repealed. However the PRS minimum standards regulations still recognise valid EPCs which were required by the 2007 regulations.

23. 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). 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 to comply with the PRS Regulations may count as modification for the purposes of the EPC requirements, the majority will not.

24. Where an EPC is legally required for a property, then not having one is unlawful and is subject to non-compliance penalties[14]. Further information on EPC requirements for non-dwellings can be found online at:
www.gov.uk/epccommercialproperty/overview[15] and
www.gov.uk/energy-performance-certificates-for-non-dwellings[16]

25. When produced, an EPC will also be accompanied by a recommendation report setting out any energy efficiency measures which may be suitable for installation in the property[17].

EPC Ten Year Validity

26. Once an EPC is lodged on the EPC register (the EPC assessor is responsible for ensuring this) it is valid for a period of ten years. A new EPC is not required each time there is a change of tenancy (or when the property is sold), provided it 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, then this one will become the current one for the property, replacing the previous one.

27. Once an EPC reaches the ten year point and expires, there is no automatic requirement to produce a new one. A further EPC will only be required the

[14] A property owner can be fined between £500 and £5,000 based on the rateable value of the building if they do not make an EPC available to any prospective buyer or tenant.
[15] www.gov.uk/energy-performance-certificate-commercial-property/overview
[16] www.gov.uk/government/publications/energy-performance-certificates-for-the-construction-sale-and-let-of-non-dwellings--2
[17] An EPC is valid where the data from which it may be produced has been lodged on the Energy Performance of Building Registers less than ten years ago 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.

next time a trigger point is reached, i.e. when the property is next sold, let or modified in the manner described in paragraph 21 above. There is also no automatic requirement to produce a new EPC after carrying out energy efficiency improvement works. However, for the purposes of the PRS minimum standards, 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 Regulations.

28. 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.

1.3.2 EPCs and multi-let buildings

29. In some cases, particularly buildings which may contain multiple 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.

30. For the purposes of the PRS 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 space within a building, 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 building EPC will be the relevant EPC.

31. 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 advice from an independent expert if they are in any doubt about which EPC is the relevant EPC.

32. 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.

1.3.3 Circumstances where an EPC may not be required

33. Guidance issued by the Department for Communities and Local Government (DCLG) notes that an EPC is generally 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 protected[18] 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 sectoral 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).

Notes on EPC exemptions for business premises can be found here[19].

34. 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 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 E** of this guidance.

35. 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.

[18] Listed buildings on the English Heritage (or its Welsh equivalent) website (www.english-heritage.org.uk/caring/listing/listed-buildings).
[19] www.gov.uk/energy-performance-certificate-commercial-property/exemptions.

Listed Buildings and EPC Compliance

There is a common misunderstanding relating to 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 non-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.

As noted at 1.3.3 above, 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 external 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.

If an owner or occupier of a listed building is unsure about whether their particular property is or is not required to have an EPC, appropriate advice should be sought at the earliest opportunity.

1.3.4 Voluntary EPCs

36. 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. at any time other than when the property was to be sold or let), the landlord will not be required to meet the minimum standard. A voluntary EPC may have been commissioned by a landlord who believed in error that one was required for their property, or may be one commissioned by a property owner or occupant who simply sought reliable advice on how to reduce energy waste.

37. 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.

38. 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. Again, 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, expert advice should be sought.

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 lease from April 2018: If the property already has an 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 lease with an F rated EPC obtained, as legally required, in 2015: On 1 April 2023 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 lease with an F rated EPC obtained in 2012: On 1 April 2023 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 expired in 2022, 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 re-let the property (to the current tenant, or to a new tenant) once the current lease expires, or if they (or their tenant) modify the property in a manner which would require a new EPC.

Scenario four

Based on scenario three, if the tenant in 2025 wishes to sublet the property, the tenant (who will become a sub-landlord) will be required to obtain an EPC to market the property. If this EPC shows an F or a G rating then the landlord will need to comply with the minimum energy efficiency provisions because the property now has a valid, legally required, EPC.

Note: Landlords will wish to be aware that the methodologies underpinning EPC calculations are updated periodically (the methodology is called the Standard Assessment Procedure, or SAP). 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 minimum standards compliance.

1.4 Where all relevant works have been done but the property remains sub-standard (Regulation 29)

39. The Regulations provide for an exception to the prohibition on letting sub-standard property (property with an F or G EPC rating) 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 made), and the property remains sub-standard (please see section 2.1 in chapter two for the definition of 'relevant energy efficiency improvements').

40. If a landlord intends to rely on this exception then it must be registered on the PRS Exemptions Register (see table two in chapter four below). 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.

41. Please be aware, in all cases, exemptions from the prohibition on letting may not pass over to a new owner or landlord upon sale, or other transfer, of a property. If a let property with an F or G rating is sold or otherwise transferred with an exemption in place, the exemption will cease to be effective. The new owner will need to either improve the property to the minimum standard, or register an exemption where one applies (including a temporary six month

exemption under Regulation 33), if they intend to continue to let the property. If the property is sold to an owner occupier the regulations do not apply at all.

Chapter 2: Minimum Standards Improvements and Funding

2.1 Relevant Energy Efficiency Improvements **(Regulation 28**)

42. For the purposes of the minimum standards, the relevant energy efficiency improvements which a landlord may choose to install to allow 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 via any of the following:

- a relevant recommendations report[20] (including the recommendations report accompanying a valid EPC),
- a report prepared by a surveyor[21], or
- a Green Deal advice report,

43. Details of the energy efficiency improvements which may be specified in any of the above reports, and which may be installed to meet the minimum level of energy efficiency in non-domestic properties, are set out in **Appendices B and C** of this guidance[22]. Technically, as the Regulations are currently drafted, the measures set out in **Appendix B** (the Green Deal Order Schedule) would only apply where Green Deal finance was being used, while the measures provided for through **Appendix C** (the Building Regulations Approved Document L2B) apply where measures otherwise funded will achieve a 7 year payback. However, in practice there will be significant overlap between the measures represented by these two sources.

44. As noted in chapter one, where a sub-standard property is able to undertake improvements to meet the minimum standard (or can undertake improvements but still not meet the minimum standard), the landlord may

[20] 'Recommendations report' has the meaning given in *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'.
[21] A qualified surveyor is one who is on the Royal Institution of Chartered Surveyors' register of valuers. The register can be accessed via RICSs website at: www.ricsfirms.com.
[22] The list of energy efficiency improvements in Appendix B appears in the Schedule to the Green Deal (Qualifying Energy Improvements) Order 2012; the list in Appendix C reproduces Table 6 of the Building Regulations Approved Document L2B.

wish to arrange for a new, post-installation EPC to be carried out, reflecting any changes to the EPC rating and any improvements made.

2.2 Relevant Energy Efficiency Improvements and Cost Considerations (Regulation 28)

2.2.1 The Seven Year Payback Test

45. Installation of the energy efficiency improvements set out in **Appendix C** (which, as noted above, will in practice overlap significantly with those listed in **Appendix B**) will only be required for a non–domestic property where the recommended measure (or a package of measures) achieves an energy efficiency payback of seven years or less. (As noted previously, the Regulations also allow for measures which are capable of being funded by a Green Deal finance plan, but at this time Green Deal finance is not available for new Green Deal plans so this funding option is not currently applicable.)

46. The formula for the seven year payback test is set out in **regulation 28(3) – (8)** of the Regulations. Any energy efficiency measure referred to at **Appendix C** of this guidance (Table 6 of the Building Regulations Approved Document L2B) is only a relevant energy efficiency improvement if it passes the payback test and has been recommended for a non-domestic property in any of the reports referred to in 2.1 above.

47. A measure, or a package of measures, meets the seven year payback test where the expected **value of savings** on energy bills that the measure (or package of measures) is expected to achieve over a period of seven years, starting with the date the installation is completed, are equivalent to, or greater than, the **cost of repaying** it.

Installing packages of energy efficiency measures

Landlords should note that certain combinations of energy efficiency improvements of the kind relevant to the PRS minimum standards can often work together to increase expected savings on bills, achieving greater savings in combination than they would on their own. For this reason certain measures which might, individually, fail the seven year payback test, may pass the test when installed as a package.

Calculation of the expected savings which might be achieved by a package approach is not a requirement of the Regulations. As such, enforcement authorities do not have powers to undertake enforcement activity where a landlord has chosen only to install a discrete measure where a relevant package was available as an option. However, Government would encourage landlords to consider packages of measures where they meet the payback test, and landlords should seek advice on package options from a qualified energy efficiency assessor or installer of the relevant, recommended measures where appropriate.

Determining the 'Value of Savings' on Energy Bills (S)

48. The Regulations state that the expected **value of savings** (S) on energy bills for the proposed measure, or measures, must be calculated using:
    a. the approved methodology[23], and
    b. using relevant energy prices.

49. This means a landlord will be required to obtain a £ figure representing the savings which a measure, or a package of measures, is expected to achieve over seven years, based on the energy costs of the property in question, or an informed estimate of those energy costs. The Regulations do not specify who should carry out the savings calculation, but 'approved methodology' refers to the methodology for calculating EPCs, therefore unless a landlord has in-house capability, they are likely to require the services of a competent non-domestic energy assessor, such as a level four accredited non-domestic energy assessor (NDEA), who can determine expected savings, incorporating property specific energy price information provided by the landlord. Accredited NDEAs can be searched for here[24].

[23] In the Regulations, "approved methodology" refers to any approved methodologies and software programs that can be used to calculate Energy Performance Certificates in accordance with regulation 24(1) of the *Building Regulations 2010*.
[24] www.ndepcregister.com/searchAssessor.html

Calculating 'relevant energy price'

50. Relevant energy price means the "unit cost" of the supply of energy to the rental property. Where the value of savings on energy bills is to be calculated, the landlord must provide the individual undertaking the calculation with the unit cost, calculated as follows:

Where a landlord has access to the most recent 12 months' worth of energy bills for the property:

- the unit cost should be calculated by dividing the total cost of the supply of that energy for that 12 month period (including any fixed costs charged by the supplier, but excluding VAT), by the number of units supplied in that 12 month period.

Where a landlord has energy bills for the property, but for a period of less than 12 months, from any time in the previous 15 month period which ends on the date that the payback calculation is made:

- the unit cost should be calculated by using the energy bills to estimate the total cost of the supply of energy. The estimate should cover the 12 month period ending on the date that the calculation is made (including any fixed cost charged by the supplier), and estimating the number of units of energy that would be supplied in that 12 month period. Total estimated cost of supply must then be divided by the total estimated number of units.

Where a landlord has no energy bills for the supply of energy to the property for the 12 month period which ends on the date the calculation is made:

- the landlord must use the cost per unit for the supply of that energy charged by the landlord's current, or intended, energy supplier on the date the calculation is made.

Determining the Repayment Cost (R)

51. The repayment cost (R) is determined by multiplying the capital cost of installing the proposed energy efficiency improvement (or improvements) by an interest rate factor, and then multiplying this by seven. This is shown below:

Calculating 'capital cost of installation'

52. The **capital cost of installing** a measure (C) must be calculated by adding together the cost of purchasing the improvement, and the cost of installing it (including labour costs, and based on labour and installation costs as at the date the calculation is made) but excluding VAT.

Calculating the interest rate factor

53. The interest rate factor (F) must be calculated using a standard annuity

payment factor as follows:

$$\frac{i}{1-(1+i)^{-7}}$$

where *i* is the Bank of England base rate in force at the time of the calculation[25]. Annuity payment factor calculators can be found online to carry out the equation calculation if required.

Calculating the 'interest rate factor' examples

Interest rate factor at 0.25% base rate = 0.14429

Interest rate factor at 0.5% base rate = 0.145729

Interest rate factor at 2% base rate = 0.15451

Interest rate factor at 5% base rate = 0.17282

54. Once the landlord has calculated the capital cost of installation (C), and the interest factor (F), they should multiply the cost of installation by the interest rate factor. They should then multiply this figure by seven to determine the 'cost of repayment'(R) over a seven year period.

Completing the Payback Test

55. If, after having undertaken the above calculations, the value of savings on energy bills (S) is shown to be less than the calculated cost of repayment (R), the measure (or measures) will not meet the payback test and will not be a relevant improvement for the purposes of the regulations and will not need to be installed.

56. However, where the value of savings on energy bills is *the same as or greater* than the calculated cost of repayment, the measure (or measures) will have met the seven year payback test. They will therefore be relevant improvements for the purposes of the Regulations and must be installed before the landlord can let the property, unless an exemption applies. Table one below shows several worked examples of this test.

[25] Bank of England base rate is defined in regulation 28(8) of the Regulations.

Table one

Comparing the Cost of Measure with the Cost of Savings – Worked Examples

Measure	Gas Saving[26] (kWh/y)	Savings over 7 years (S)	Capital plus installation cost (C)	Interest Rate Factor (F) (based on 0.5% base rate)	7 year repayment cost (R) (CxFx7)	Meets 7 year Payback
Condensing boiler ('A' rated)	6,609	£1,750	£2,000	0.145729	£2,040	NO
Thermostatic radiator valves	4,213	£980	£600	0.145729	£612	YES
Package of measures (boiler plus TVRs)	10,822	£2,730	£2,600	0.145729	£2,652	YES

57. Where a landlord is intending to rely on an exemption because a recommended measure does not meet the seven year payback test, they will be required to provide evidence of the capital plus installation cost (C) in the form of three separate quotes. Please see chapter four for further information on this.

2.3 Relevant Energy Efficiency Improvements and Special Provisions for Wall Insulation (Regulation 28(2))

58. 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 they meet the seven year payback test. 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.

59. The special provision is that an energy efficiency measure is not considered

[26] Please note that there may be additional electrical savings which need to be accounted for. As an example, where variable speed pumps form part of the package of measures to support the installation of a condensing boiler.

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).

60. 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' 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*.

61. 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 2010*[27], as reproduced at **Appendix F** of this document.

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.

[27] www.legislation.gov.uk/uksi/2010/2214/pdfs/uksi_20102214_en.pdf

62. 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 two in chapter four for more information).

Chapter 3: Exclusions and Exemptions

The following chapter sets out information on the general exclusions and exemptions from meeting the minimum standard which are permitted by the Regulations. Other specific exceptions to the prohibition on letting sub-standard property, including where a recommended measure fails the seven year payback test, and the special provisions relating to wall insulation, have been covered in earlier chapters.

As discussed in chapter one, any exemptions from the prohibition on letting which are claimed by a landlord may not pass over to a new owner or landlord upon sale, or other transfer of the 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 where one applies, if they intend to continue to let the property.

As noted in the introduction, 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 and may be sent by post (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 lease. 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).

3.1 Temporary Exemptions

3.1.1 Third Party Consent exemption **(Regulation 31 and Regulation 36)**

63. Depending on circumstances, certain 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. Landlord's consent may be required where the landlord is himself or herself a tenant. Consent may also be required from the current tenant of the property or other tenants depending on the provisions of the lease or leases. 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.

64. 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.

65. 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 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 temporary exemption applies where the landlord:

- needed consent from another party, such as a superior landlord, a mortgagee, 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.

66. 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.

67. 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.

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.

68. The Regulations also allow for an exemption where a Landlord has proposed to fund the improvements through a Green Deal plan but the tenant has refused to give the consent required for the Green Deal plan[28]. However, as Green Deal finance is not currently available for non-domestic properties, this is not relevant.

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

69. A temporary 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 valuers[29] 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. The property valuation must not include the cost of the measures themselves or the cost of installation. This temporary

[28] The tenant consent requirements of a Green Deal plan are set out in Regulation 36 of *the Green Deal Framework (Disclosure, Acknowledgement, Redress etc.) Regulations 2012*. Please note however that, at this time, Green Deal finance for a new Green Deal plan is not available.

[29] 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 nature.

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.

70. 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 improvements recommended for their property that are not covered by the surveyor's report.

71. 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 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.

3.1.3 Exemption due to recently becoming a landlord **(Regulation 33 & Regulation 36 (2))**

72. 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.

73. 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 Landlord and Tenant Act 1954*.

74. Additionally, from 1 April 2023, when the minimum standard applies to all privately rented 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.

75. In all cases landlords are advised to obtain their own independent advice if they are unsure about whether any of these temporary 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 two in chapter four 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 an EPC rating of E, or have registered another valid exception or exemption, if they intend to continue letting.

Chapter 4: The PRS Exemptions Register

Where a landlord considers that an exemption applies allowing them to let, or continue to let, a sub-standard 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 demonstrate a valid exemption.

4.1 The Exemptions Register

76. Landlords of F and G rated non-domestic property are able to register valid exemptions from April 2017[30]. The PRS Exemptions Register can be accessed via the Non-Domestic Private Rented Property Minimum Standard page on gov.uk. Only those non-domestic properties which are covered by the minimum standard provisions, and which qualify for a valid exemption, will need to be registered. This means that non-domestic properties which are not covered by the Regulations, for example buildings which are not legally required to have an EPC, or buildings let on very short, or very long, leases (see 1.1.1 in chapter one) will not be required to register.

77. 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; but the exemption will be logged on the register and appropriate levels of data related to the exemption will be accessible by enforcement authorities and members of the public (see below).

[30] 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*.

78. 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.

79. While the Register will be available from April 2017 and non-domestic landlords may register valid exemptions from that point if they wish, there is no requirement to register an exemption before the minimum standard requirements come into force from 1 April 2018, and before a tenancy renewal (for example, when a fixed term lease comes to an end and a new fixed term lease is granted) or the issuing of a new tenancy triggers the need to comply with the standard.

Public access to the register

80. The Regulations require that part of the database must be open to the public, providing partial information about all exemptions registered. In line with the Regulations and data protection requirements, no personal data will be made available as part of this public access requirement; information available on the publically accessible part of the site will be limited to:

- the addresses of properties for which exemptions have been registered;
- the 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.

81. This public element of the register will be open from April 2018.

Exemption lengths

82. As discussed elsewhere 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.

83. As noted 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.

4.1.1 General Principles of the Register

84. 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 the costs of improvements exceed the seven year payback rule, and in the time between the landlord's initial calculation and the point they planned to register the exemption, the cost of the measures fell so that they now meet the payback rule, the landlord will no longer be able to rely on their initial costings as a qualifier for a valid exemption.

85. 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 to allow them to let, or continue to let, the property. 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 inaccurate 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.

86. If a landlord has any questions or concerns about the evidence needed to support an exemption they should speak with their local Weights and Measures Authority, who will be responsible for enforcement within their geographic boundary, in advance of registering the exemption. See Chapter five for more information on enforcement.

4.2 Exemptions Register Data and Evidence Requirements

87. 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.

88. 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 two below sets out the common information requirements for all exemptions, followed by the additional information required for specific exemptions.

Table two:

Exemptions Register Information requirements	
Information required for *all* exemptions:	• 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	
Registering a wall insulation exemption under regulation 28(2) (see section 2.3):	• 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 an exemption under the regulation 29(1)(a) exception - where all relevant improvements have been made and the property remains below an E (see section 1.4):	• details of any energy efficiency improvement recommended for the property in a relevant recommendation report, including an EPC report, a report prepared by a surveyor, or a Green Deal report; • details, including date of installation, of all recommended energy efficiency improvements which have been made at the property in compliance with the Regulations.
Registering an exemption under the regulation 29(1)(b) exception – where the property is below an E and there are no improvements which can be made:	• a copy of the relevant report to demonstrate this (if separate to the relevant EPC);

Registering an exemption under the regulation 28(3) exception - where a measure in a valid recommendations report is *not* a "relevant energy efficiency improvement" because it does not meet the seven year payback rule:	• copies of three quotes for the cost of purchasing and installing the measure from qualified installers, and confirmation that the landlord (or where the landlord is not a company under S1 of the Companies Act 2006, confirmation that a director)(or in any other case, confirmation that a person exercising management control in relation to the landlord) is satisfied that it does not meet the seven year payback rule, including copies of the calculations made to demonstrate this.
Registering a consent exemption under regulation 31(1) (see section 3.1.1):	• 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. 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 5 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.
Registering a devaluation exemption under regulation 32(1) (see section 3.1.2):	• a copy of the report prepared by an independent RICS surveyor that provides evidence that the installation of a 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 3.1.3):	• 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). 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.

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.

Chapter 5: Enforcement of the Non-Domestic Minimum Level of Energy Efficiency

The following chapter is addressed to 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.

5.1 Compliance and Enforcement

5.1.1 Enforcement authorities **(Regulations 34 and 35)**

89. Every local weights and measures authority (LWMA)[31] 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 LWMA may carry out the enforcement activities including using the information held on the PRS Exemptions Register or produced in response to a compliance notice to

[31] Local weights and measures authorities are trading standards departments that deliver the local enforcement of most of the UK's weights and measures legislation.

monitor compliance, and issue compliance and penalty notices where applicable.

90. 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 LWMAs as to how they wish to enforce the Regulations, taking into account the particular needs of their area.

91. 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 2023)(see section 1.2 in chapter one);
- 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 5.1.2 below)

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

92. 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 in chapter one), 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.

93. 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.

94. 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**).

95. 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 Assessment 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.

96. 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).

97. 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 1.6.3 below).

98. 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.

5.2 Penalties

5.2.1 Financial penalties (**Regulation 41**)

99. Where an enforcement authority is satisfied that a breach of the regulations has occurred they have a number of penalty options at their disposal. Where the enforcement 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 (see section 1.2) and has been in breach for less than three months at the time the penalty notice is served, the enforcement authority may impose a financial penalty of up to £5,000, or of up to 10% of the

rateable value of the property[32] (whichever is greater), subject to a maximum financial penalty of £50,000. The enforcement authority may also impose the publication penalty (see section 5.2.2 below).

b. Where the landlord has let a sub-standard property unlawfully (see section 1.2) and has been in breach for three months or more at the time the penalty notice is served, the enforcement authority may impose a financial penalty of the greater of up to £10,000 or 20% of the rateable value of the property (whichever is greater), up to a maximum of £150,000. The enforcement authority may also impose the publication penalty.

c. Where the landlord has registered false or misleading information on the PRS Exemptions Register (see sections 4.2), the enforcement authority may impose a financial penalty of up to £5,000 and may impose the publication penalty.

d. Where the landlord has failed to comply with a compliance notice (see section 5.1.2), the enforcement authority may impose a financial penalty of up to £5,000 and may impose the publication penalty.

100. An enforcement authority should not impose a financial penalty under both paragraphs (a) and (b) in relation to the same breach of the Regulations. However, 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. Table two below reflects these penalty options.

Table 2:

Infringement	Penalty (less than three months in breach)	Penalty (three months or more in breach)
Renting out a non-compliant property	• Up to either: ○ £5,000, *or* ○ 10% of rateable value, with maximum penalty of £50,000 Whichever amount is the greater. • Publication of non-compliance	• Up to either: ○ £10,000, *or* ○ 20% of rateable value, with maximum penalty of £150,000 Whichever amount is the greater. • Publication of non-compliance

[32] The rateable value of the property for these purposes is the value shown for the property on the local non-domestic rating list (the rating list maintained under section 41 of the Local Government Finance Act 1988) at the time the penalty notice is served.

Providing false or misleading information, or failing to comply with a compliance notice	Up to £5,000 Publication of non-compliance

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

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 the penalty notice is served, the enforcement authority could impose a financial penalty of up to £50,000 in relation to that breach.

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 2023), that would be a new breach of Regulation 27, and the enforcement authority could impose financial penalties in relation to that new breach of up to £50,000.

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 £50,000 in relation to each property.

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 £160,000 (up to £150,000 for letting the property, up to £5,000 for registering false or misleading information, and up to £5,000 for failure to comply with a compliance notice).

5.2.2 Publication penalty (**Regulation 39**)

102. 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.

103. 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.

104. 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 5.2.5), or while their decision to uphold the penalty notice could be, or is being, appealed (see section 5.3).

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

105. 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 2023) (see section 1.2.1); or
- in breach of the requirement to comply with a compliance notice (see section 5.1.2), or
- has uploaded false or misleading information to the Exemptions Register.

106. 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.

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

107. 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 5.2.5 and 5.3 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 5.2.6).

108. 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)."

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

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

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

111. A landlord 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.

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

- they are no longer satisfied that the landlord 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.

113. 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 5.3).

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

5.2.6 Recovery of financial penalties **(Regulation 45)**

115. 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 5.3 above), or while there is an ongoing appeal to the First-tier Tribunal, against the penalty notice.

5.3 Appeals

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

116. 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.

117. The General Regulatory Chamber (GRC) is governed by a set of Tribunal Rules which can be found here[33]. General information on the Tribunal can be found here[34].

118. 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.

5.3.2 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.

119. 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.uk[35]. (please note: guidance on completing the form can be found at: hmctsformfinder.justice.gov.uk/GetLeaflet[36]).

[33] www.gov.uk/government/publications/general-regulatory-chamber-tribunal-procedure-rules
[34] www.gov.uk/courts-tribunals/first-tier-tribunal-general-regulatory-chamber
[35] hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2800
[36] hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2597

120. 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.

121. Completed notices of appeal should be sent to:

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

The GRC 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.

122. 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.

123. 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.

124. 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.

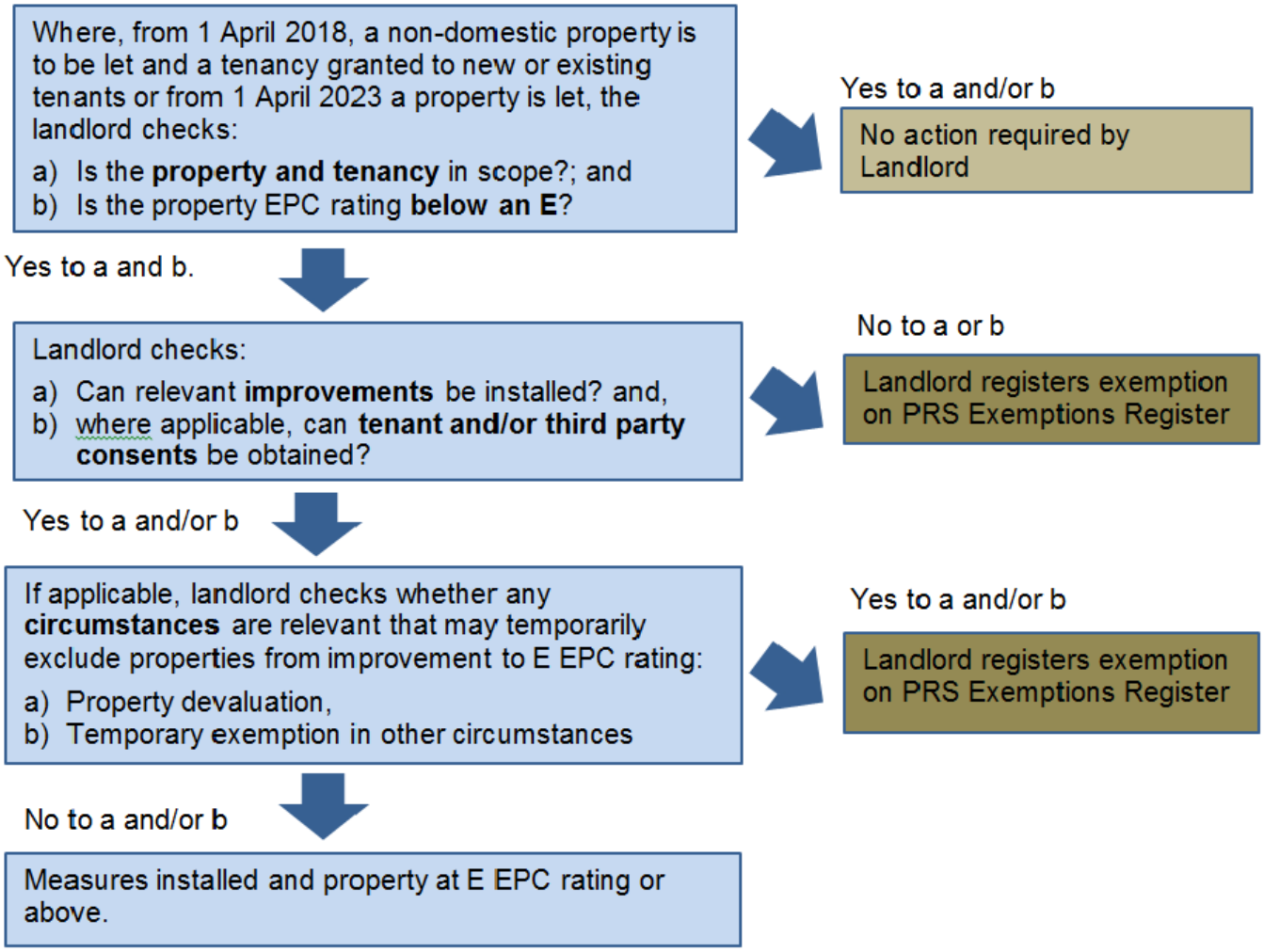
125. Full details and guidance on the process can be found here[37].

126. 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 towards a financial penalty notice.

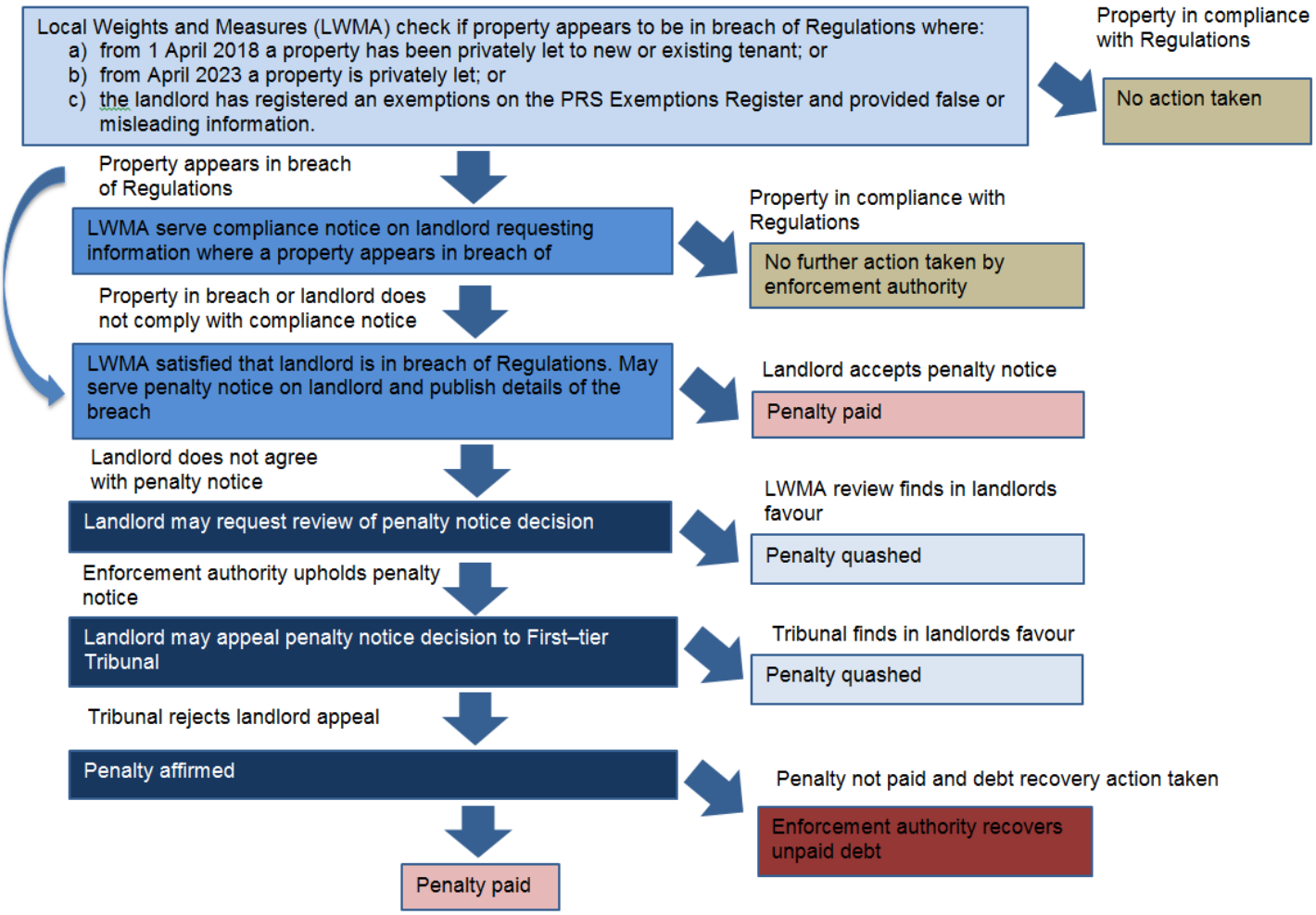
[37] www.gov.uk/courts-tribunals/first-tier-tribunal-general-regulatory-chamber

Appendix A

Minimum Level of Energy Efficiency Provisions Flow Chart



Compliance and Enforcement Flow Chart



Appendix B

The Green Deal (Qualifying Energy Improvements) Order 2012 Schedule

(a) air source heat pumps;
(b) biomass boilers;
(c) biomass room heaters (with radiators);
(d) cavity wall insulation;
(e) chillers;
(ea) 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 C

Building Regulations Approved Document L2B: Conservation of fuel and power in existing buildings other than dwellings[38] – Table 6

Table 6 Improvements that in ordinary circumstances are practical and economically feasible

Items 1 to 7 will usually meet the economic feasibility criterion set out in paragraph 6.5. A shorter payback period is given in item 8 because such measures are likely to be more capital intensive or more risky than the others.

No.	Improvement measure
1	Upgrading heating systems more than 15 years old by the provision of new plant or improved controls
2	Upgrading cooling systems more than 15 years old by the provision of new plant or improved controls
3	Upgrading air-handling systems more than 15 years old by the provision of new plant or improved controls
4	Upgrading general lighting systems that have an average lamp efficacy of less than 40 lamp-lumens per circuit-watt and that serve areas greater than 100 m² by the provision of new luminaires or improved controls
5	Installing energy metering following the guidance given in CIBSE TM 39
6	Upgrading ***thermal elements*** which have U-values worse than those set out in column (a) of Table 5 following the guidance in paragraphs 5.12 and 5.13
7	Replacing existing windows, roof windows or rooflights (but excluding display windows) or doors (but excluding high-usage entrance doors) which have a U-value worse than 3.3 W/m².K following the guidance in paragraphs 4.23 to 4.28
8	Increasing the on-site low and zero carbon (LZC) energy-generating systems if the existing on-site systems provide less than 10% of on-site energy demand, provided the increase would achieve a simple payback of 7 years or less
9	Measures specified in the Recommendations Report produced in parallel with a valid Energy Performance Certificate

[38] http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_L2B_2015.pdf

Appendix D

Private Rented Sector Minimum Standards Frequently Asked Questions

What is an EPC and when is it required?

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 non-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.

Why are private rented properties with an EPC rating of F and G the focus of the Regulations?

There are a disproportionate number of F and G rated properties in the private rented sector compared to other property sectors. Nearly one in five properties falls below an "E" EPC rating in the non-domestic sector.

In the non-domestic sector there is significant energy and carbon saving potential in driving improvements to properties that are below an E rating. By setting the non-domestic minimum standard at an E EPC rating, in line with the domestic sector, a clear and consistent message can be sent to property owners, the supply chain and enforcement agents (including local weights and measures authorities, and trading standards) on what the minimum standard means for privately rented property.

Exemptions and the Exemptions Register

The list of temporary, five-year exceptions and exemptions is as follows:

1. High cost exemption: To avoid landlords being faced with disproportionate costs, they are only required to install those measures which can be paid for either with Green Deal funding, or where the costs of purchasing and installing improvements do not exceed a simple seven year payback (see paragraph 2.1 and 2.2 for details).

2. Impact on value exemption: Where a landlord obtains a written report from a registered surveyor that states that installing the measure will decrease the capital value of the property by more than 5%, they are temporarily exempt.

3. Unsuitable measures exemption: For wall insulation (either cavity wall or solid wall), where a landlord obtains a written report from a suitably qualified person 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 forms part, they are temporarily exempt.

4. Consent exemption: where a landlord is unable to obtain any legally required third party consents (such as from a superior landlord, planning department, the tenant or other tenants of the building, a bank or financial institution with an interest in the property etc.), they are temporarily exempt. In the case of a tenant consent barrier, the exemption will only last as long as the tenant who refused consent remains the tenant (or for five years – whichever is soonest).

5. Exemption on grounds of recently becoming a landlord: If a person becomes a landlord under a number of prescribed circumstances, they are exempt from meeting the minimum standard for a maximum of six months from the date on which they become the landlord.

All exemptions must be lodged with the PRS Exemptions Register, and must include related evidence. Exemptions are non-transferable – a building sold cannot rely on a previous owner's exemption. Exemptions expire after five years (except in the case of exemption 5, which expires after six months), and once expired, a landlord will need to again try to reach the standard if they wish to let the property, or register another valid exemption.

Property Types which are not covered by the Regulations

The minimum standards provisions apply to all non-domestic privately rented properties (including non-domestic properties let by local authorities and other public bodies) that are required to have an EPC. Listed buildings and buildings within a conservation area will not be required to meet the minimum standards where, 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.

<u>Further detail on listed buildings and EPCs</u>

Rented listed buildings and buildings within a conservation area are not automatically excluded from having to comply with the PRS minimum standards as, in some cases, they may well benefit from appropriate energy efficiency improvements. However, as noted above, a property is excluded if it is/was not required to have an EPC under the *Energy Performance of Buildings Regulations 2012* or the *Building Regulations 2010*.

The minimum standard provisions only apply to properties for which an EPC is required (or are part of a building for which an EPC is required). An EPC is not currently required for any listed property or building within a conservation area when it is sold or rented in so far as compliance with certain minimum energy performance requirements would unacceptably alter its character or appearance. Where a listed building is required to have an EPC, a range of protections are in place: a landlord will not be required to install measures for which listed building consent is

needed and refused; nor will a landlord be required to install wall insulation measures where they have expert advice that the measure could have a negative impact on the fabric or structure of the building.

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 may need planning permission - check with your local council,
- External insulation requires good access to the outer walls,
- 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 advice exists that the measure will cause damage to the property. 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.

Appendix E

The following text provides further guidance of definition's for non-domestic properties which may be exempt from the requirement to have an EPC. This text is reproduced from 2016 guidance issued by the Department for Communities and Local Government.

A **non-dwelling** is a building that is not a dwelling, such as retail units and offices.

If a **building** that is to be used for **industrial or commercial purposes** (e.g. a workshop or an office) also contains living accommodation, it should be treated as a **dwelling** if the industrial or commercial part could revert to domestic use, without significant alteration, on change of ownership. This could be the case if:

a. there is direct access between the industrial or commercial space and the living accommodation; and
b. both are contained within the same thermal envelope; and
c. the living accommodation occupies a substantial proportion of the total area of the building (e.g. a small manager's flat in a large non-domestic building would not mean the whole should be treated as a dwelling).

Buildings that are industrial sites and workshops with low energy demand. These include buildings, or parts of buildings designed to be used separately, whose purpose is to accommodate industrial activities in spaces where the air is not conditioned. Activities that would be covered include foundries, forging and other hot processes, chemical process, food and drinks packaging, heavy engineering and storage and warehouses where, in each case, the air in the space is not fully heated or cooled. Whilst not fully heated or cooled these cases may have some local conditioning appliances such as plaque or air heaters or air conditioners to serve people at work stations or refuges dispersed amongst and not separated from the industrial activities.

Non-residential agricultural buildings with low energy demand include buildings, or parts of buildings designed to be used separately, that are heated for a few days each year to enable plants to germinate but are otherwise unheated.

Rooms for residential purposes are not dwellings. A Room for residential purposes is defined in the Building Regulations 2010 as a room, or a suite of rooms, that is not a dwelling-house or a flat and that is used by one or more persons to live and sleep and includes a room in a hostel, an hotel, a boarding house, a hall of residence or a residential home, but does not include a room in a hospital, or other similar establishment, used for patient accommodation.

Furnished holiday accommodation meets the following criteria in the Income Tax (Trading and Other Income) Act 2005, as amended in April 2012, which are set out after this definition:

- it must be "furnished holiday accommodation" that meets the requirement in section 323(3)(a) and the requirement in section 323(3)(b) as qualified below in relation to sections 325 and 326;
- it must be "qualifying holiday accommodation" as described in section 325(1) that meets the availability condition in section 325(2) and the letting condition in section 325 (3) and (4), and is not let for any period of longer term occupation within the meaning of section 325 (4);
- it must not be under-used holiday accommodation as defined in section 326(1)

Income Tax (Trading and Other Income) Act 2005 extracts:

323 Meaning of "commercial letting of furnished holiday accommodation"

(1) A letting is a lease or other arrangement under which a person is entitled to the use of accommodation.

(2) A letting of accommodation is commercial if the accommodation is let—

(a) on a commercial basis, and

(b) with a view to the realisation of profits.

(3) A letting is of furnished holiday accommodation if—

(a) the person entitled to the use of the accommodation is also entitled, in connection with that use, to the use of furniture, and

(b) the accommodation is qualifying holiday accommodation (see sections 325 and 326).

(4) This section applies for the purposes of this Chapter.

324 Meaning of "relevant period" in sections 325 and 326

(1) For the purposes of sections 325 and 326 "the relevant period" for accommodation let by a person in a tax year is determined as follows.

(2) If the accommodation was not let by the person as furnished accommodation in the previous tax year, "the relevant period" is 12 months beginning with the first day in the tax year on which it is let by the person as furnished accommodation.

(3) If the accommodation—

(a) was let by the person as furnished accommodation in the previous tax year, but

(b) is not let by the person as furnished accommodation in the following tax year, “the relevant period” is 12 months ending with the last day in the tax year on which it is let by the person as furnished accommodation.

(4) Otherwise “the relevant period” is the tax year.

325 Meaning of “qualifying holiday accommodation”

(1) Accommodation which is let by a person during a tax year is “qualifying holiday accommodation” for the tax year if the availability, letting and pattern of occupation conditions are met.

(2) The availability condition is that, during the relevant period, the accommodation is available for commercial letting as holiday accommodation to the public generally for at least 210 days.
(3) The letting condition is that, during the relevant period, the accommodation is commercially let as holiday accommodation to members of the public for at least 105 days.

(4) For the purposes of the letting condition, a letting of accommodation for a period of longer-term occupation (see subsection (6)) is not a letting of it as holiday accommodation.

(5) The pattern of occupation condition is that, during the relevant period, not more than 155 days fall during periods of longer-term occupation.

(6) For the purposes of this section a “period of longer-term occupation” is a continuous period of more than 31 days during which the accommodation is in the same occupation otherwise than because of circumstances that are not normal. 326 Under-used holiday accommodation: averaging elections (1) This section applies if during a tax year a person lets both— (a) qualifying holiday accommodation, and (b) accommodation that would be qualifying holiday accommodation if the letting condition (see section 325(3)) were met in relation to it (“under-used accommodation”).

Appendix F

SCHEDULE 3

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

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

Wales

Column 1	*Column 2*
Type of Work	***Person carrying out work***
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 associated controls.	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, 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 forms part of glazed curtain walling or a revolving door.	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 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 demountable-clad buildings.	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.
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.

England

Column 1	*Column 2*
Type of work	***Person carrying out work***
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. Installation of— (a) an oil-fired combustion appliance; or (Certification) Limited[2] , Blue Flame Certification (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 Limited[3] , Building Engineering Services Competence Assessment Limited[4] , Certsure LLP[5] , **[…]**[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, NAPIT Registration Limited, Oil Firing Technical Association Limited, or Stroma Certification Limited.
4. Installation of a heating or hot water system, or its associated controls.	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, or 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, 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 **[…]**[10] 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[11] , **[…]**[10] Certsure LLP, by Fensa Limited [12] under the Fenestration Self-Assessment Scheme, by NAPIT Registration Limited, Network VEKA Limited[13] , 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 forms part of glazed curtain walling or a revolving door.	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 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 byAssociation 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	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

2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources[14]).	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[15] .
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, Cavity Insulation Guarantee Agency **[…]**[16] [17] 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[18] , 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 demountable-clad buildings.	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.
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 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.

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