



Department for
Business, Energy
& Industrial Strategy

DOMESTIC RENTED SECTOR MINIMUM LEVEL OF ENERGY EFFICIENCY

Government Response to the consultation on proposals to amend *The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*

November 2018



© Crown copyright 2018

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

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

Contents

General Information	4
Purpose of this document	4
Executive Summary	5
Government Responses to Individual Consultation Questions	7
Question 1	7
Introduction of a capped landlord contribution	7
Question 2a	8
Level of the cap	8
Question 2b	12
The cap and VAT	12
Question 3	13
Landlord investment in energy efficiency improvements prior to 1 October 2017	13
Question 4	15
The cap and third-party funding	15
Question 5	18
Inclusion of a regulatory duty to provide cost information?	18
Question 6	19
Evidencing a high cost exemption	19
Question 7	20
Curtailing the validity of any existing 'no cost' exemptions	20
Question 8	22
Removing the tenant consent exemption	22
Question 9	23
Additional considerations	23
Question 10a, 10b,10c	25
Impact Assessment and evidence questions	25

General Information

Purpose of this document

This document sets out the UK Government's response to the consultation to amend the *Energy Efficiency (Private Rented Sector) (England and Wales) Regulations 2015*.

Issued: November 2018

Enquiries to:

The PRS Minimum Standards Team
Department for Business, Energy and Industrial Strategy
Level 6, Orchard 1
London
SW1H 0ET

Email: PRSconsult@beis.gov.uk

Consultation reference: Domestic

Territorial extent:

This document relates to a consultation concerning England and Wales only.

Additional copies:

You may make copies of this document without seeking permission and may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the [Open Government Licence](#). An electronic version can be found at www.gov.uk.

Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

Executive Summary

The Government's public consultation on proposals to amend the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* (the 'minimum standard regulations') ran from December 2017 until March 2018. Published as an 'open' document on the BEIS website and on the citizen space hub, the consultation sought views across England and Wales on the Government's proposals to amend the minimum standard regulations to introduce a landlord spending contribution component, in addition to a number of consequential amendments. We received 198 written responses from a variety of organisations and individuals. The views expressed were wide ranging, with some providing depth of thought to specific consultation questions, while others were more strategic on the overarching issues. A [Summary of Responses](#) was published on 26 July 2018.

The final policy decisions set out in this document have been informed by the responses to that consultation and by Government's wider strategic aims. The decisions have also been informed by our updated housing stock energy efficiency feasibility analysis, and other related data. Please note, this document does not discuss stakeholder views in any detail or attempt to respond individually to every comment received during the consultation period. Accordingly, this document should be read in conjunction with the previously published Summary of Responses.

Subject to timely Parliamentary approval, the amending regulations will be implemented as follows:

1. Introduce a landlord financial contribution amendment with the landlord contribution capped at £3,500 and inclusive of VAT;
2. Any investment in energy efficiency made since October 2017 to be counted within the cap;
3. Any available third-party funding, including Green Deal finance and local authority grant funding, to be counted within the cap;
4. Establish a new 'high cost' exemption to be available where a substandard property cannot be improved to E for £3,500 or less, and require the submission of three installer quotes where a landlord is registering such a 'high cost' exemption;
5. Remove the current 'no cost to the landlord' provision, and curtail existing 'no cost' exemptions so that they will end on a planned date of April 2020;
6. Remove the consent exemption currently available under Regulation 31(1)(a)(ii) where a tenant has withheld consent to a Green Deal finance plan;
7. Upon enactment, the amended regulations will apply upon the granting of:
 - a. a new tenancy to a new tenant, and,

Amending the domestic private rented sector minimum level of energy efficiency regulations: Government response to consultation

b. a new tenancy to an existing tenant.

8. From 2020, the amended regulations will apply to all privately rented property in scope of the regulations, in line with the existing regulatory 'backstop' date.

Government will lay the amending regulations, implementing the policy as described above, in Parliament at the earliest opportunity. The Government will update the official published guidance to reflect the amended regulations and will work with the sector to disseminate this updated guidance. This will help landlords, tenants, local authorities and wider sector bodies to understand and prepare for the amended regulations before they begin to apply. Government intends the amended regulations to come into force during the course of 2019, subject to parliamentary time.

In line with 'Better regulation framework: interim guidance', the Government has put in place a requirement to review the operation and effect of the 2015 regulations at no less than five yearly intervals. This duty to review will also apply to the amended regulations.

Government Responses to Individual Consultation Questions

Question 1

Introduction of a capped landlord contribution

Do you agree with the policy proposal under consideration to introduce a landlord contribution element where funding is unavailable to ensure improvements to Band F and G properties can be delivered (unless a valid exemption applies)? This would be subject to a cost cap?

Decision

1. In line with the consultation proposal, the Government intends to amend the regulations to introduce a capped landlord contribution that will take effect where third-party funding is unavailable or insufficient to cover the costs of energy efficiency improvements. This decision has been made in recognition of the current constraints on third-party funding and their impact on the effectiveness of the current regulations. Domestic rental properties in England and Wales affected by this decision represent less than 6% of the overall domestic market.

Rationale

2. As noted in the published Summary of Responses, this proposal received strong support from consultation respondents, with a majority agreeing with Government that the current regulations have insufficient bite. In most cases respondents argued that landlords have a moral duty to ensure that homes they rent are 'fit for purpose', as well as noting that landlords will benefit in the longer term from improvements made to their properties, including from capital value increases.
3. Those opposed to the proposal argued that it would be preferable for the Green Deal and Government grants to be 'funded and prioritised', suggesting this would serve to incentivise landlords to co-invest in improving the energy efficiency of their properties. However, while Green Deal is available (albeit in constrained form), our analysis shows that it is not being utilised at scale by landlords, and energy efficiency improvements are not being delivered at any significant scale via other routes. This strongly suggests that a strengthened regulatory requirement is necessary to drive investment.
4. Having considered the arguments, the Government believes that introducing a landlord funding contribution element is reasonable, while still permitting landlords to make use of any third-party funding that is available. Its introduction will ensure that landlords of EPC F and G rated properties make improvements to these properties to raise them to EPC E, or as close as is practicable, regardless of the funding landscape. Accompanied by an appropriately set upper cap, we are persuaded that the amended requirement will

Amending the domestic private rented sector minimum level of energy efficiency regulations: Government response to consultation

not place an unreasonable burden on those landlords who are unable to deliver energy efficiency improvements to their EPC F and G properties wholly through third-party funding.

Impact

5. The minimum standard regulations will continue to require, before their properties are let, that domestic landlords of EPC F and G rated properties improve those properties to a minimum of EPC E (or as close as possible) using third party funding. However if this is not possible, the regulatory amendment would add an extra dimension: landlords must find funding from elsewhere (whether self-funding, loan, mortgage extension, etc) and ensure that energy efficiency improvements are made in order to improve these properties to EPC E, or as close as possible, so long as the total costs of the improvements do not exceed a £3,500 cap (see the following response).
6. The Domestic Private Rented Minimum Standard Guidance for Landlords and Local Authorities (hereinafter the 'Guidance') will be amended to reflect this amendment, as will other advice material such as the landlord compliance information available via the Simple Energy Advice online advice service.

Question 2a

Level of the cap

Do you agree that a cost cap for improving sub-standard domestic private rented property should be set at £2,500?

Decision

7. As noted above, the Government remains of the view that the landlord funding contribution element should be capped. At consultation a cost cap of £2,500 was proposed. In recognition of consultation responses and informed by additional modelling and analysis undertaken for the Final Impact Assessment (published separately), the Government has decided to set the cost cap at £3,500 per property.

Rationale

8. As discussed in the Summary of Responses, the consultation proposal for a £2,500 cap attracted a range of views, with only a minority of respondents agreeing with a cap of this amount. 79% of respondents recommended a higher cap, ranging from £3,500 to £5,000 (with 48% arguing for a £5,000 cap) or for the landlord funding requirement to be uncapped. Only a small minority argued for a lower cap or an alternative funding mechanism.
9. While the £2,500 cap proposed at consultation proved to be a concern for a number of smaller landlords, it attracted broad acceptance from landlord groups (e.g. the British Property Federation, Country Land and Business Association and Residential Land Association). Meanwhile, both the Committee on Climate Change (in its report to

Amending the domestic private rented sector minimum level of energy efficiency regulations:
Government response to consultation

Parliament)¹, and the Committee on Fuel Poverty² were of the view that a cap at £2,500 would severely limit the scope and impact of the Regulations.

10. In light of these arguments and informed by revised modelling and forecasting work undertaken by Government for the Final Impact Assessment, we confirm that the cap will be set at £3,500. The updated modelling shows that this cap will enable 48% of EPC F and G properties to be improved to EPC E (as opposed to the 32% indicated at the consultation stage) with the remaining 52% all able to make some level of improvement while not reaching EPC E. Our updated analysis also indicates there are currently around 290,000 domestic PRS properties in England and Wales (as opposed to the 280,000 estimated at consultation stage) with an EPC rating of Band F or Band G, of which 45% are fuel poor households.
11. The key benefits of the £3,500 cap (discussed in detail in the Final Impact Assessment) are set out in Table 1 below.

Table 1: Summary of Impact of £3,500 cap

Percentage of F and G-rated PRS homes in scope reaching Band E	Number of F and G-rated PRS homes in scope reaching Band E (of 290,000)	Percentage of F and G-rated PRS homes in scope not reaching Band E but taking some action	Average capital cost for those achieving Band E or above	Average cost for those making as much progress as possible towards Band E	Estimated average annual energy bill savings (£/property)	Estimated average potential increase in property value (£/property)
48%	139,000	52%	£1,200	£2,000	£180	£8,500

12. The Government believes a cap of £3,500 represents an appropriate and workable compromise that will enable a significant improvement to be made in the proportion of properties reaching EPC band E, improving those properties not able to quite reach band E, while addressing concerns of those worried about the potential impact on landlords of imposing too high a financial commitment. The improvements, which will be delivered as a result of these regulatory amendments, will also represent an important contribution towards our commitment to improve the energy efficiency rating of fuel poor homes to Band C by 2030, mindful of the interim fuel poverty milestone of Band E by 2020.

Impact

13. The regulations will be amended to redefine a ‘relevant energy efficiency improvement’ as one which has been recommended for a property and which can be purchased and installed (either on its own, or in combination with other improvements) for £3,500 or less. This will mean that, from the commencement date onwards, landlords of EPC F and G rated properties will need to take steps to improve the energy efficiency of their property by installing up to £3,500 worth of energy efficiency measures. As is already

¹ ‘An independent assessment of the UK’s Clean Growth Strategy – from ambition to action’, January 2018.

² This was based on the estimated percentage improvement rate of F and G properties to EPC E noted in Chapter 3: Consultation proposals and questions, paragraph 54. Their response to the consultation published 1 May 2018 ([CFP response](#))

Amending the domestic private rented sector minimum level of energy efficiency regulations: Government response to consultation

the case, the requirement to ensure the property is at EPC E (or as close as is practicably feasible) will be an obligatory condition for any new tenancy (including renewals) entered into or created on or after the commencement of the amended Regulations.

14. To determine how much will need to be invested in the property the landlord will have to review all of the possible improvements which can be made (as recommended in an EPC, Green Deal Advice Report, or other energy efficiency advice report) and then choose their preferred measure, or package of measures, up to a maximum value of £3,500. In the first instance the landlord may wish to explore third-party funding options (such as Green Deal finance or local authority grant funding; or ECO funding for high value measures) to cover the costs of the improvements. If the landlord is unable to obtain third party funding, they will need to provide their own funds to meet the costs of the improvements up to a value of £3,500. If the landlord is able to obtain partial third-party funding then they will be able to blend this with their own funding, to make up the maximum value of £3,500 (see response to question 4 below).
15. Where a landlord has made energy efficiency improvements up to £3,500 (either partially paid or paid for in full using their own funds), and this has failed to improve the property to EPC E, they will remain eligible for an exemption under the existing regulation 25(1)(a) provision - where all relevant improvements have been made and the property remains below EPC E. To demonstrate compliance with the amended regulations, the landlord will need to submit details, including date of installation, of all recommended energy efficiency improvements that have been made at the property in compliance with the amended Regulations.
16. The following sets out a number of simplified, worked scenarios:

Example 1

The following recommendations have been made for property A:

Recommended measures	Cost	Rating after improvement
Internal or external wall insulation	£5,000	D
Floor insulation	£1,200	E
Low energy lighting	£40	F
New condensing boiler	£2,300	E
Replace single glazed windows with double glazed windows	£2,400	E

- Based on the above recommendations, the landlord of property A could choose to install either floor insulation, a new condensing boiler, or double glazing; each of these measures cost below the value of the cap, and each will improve the property to E

Amending the domestic private rented sector minimum level of energy efficiency regulations: Government response to consultation

without the need for further improvements. In this scenario, the landlord should install their preferred measure and no further action will be required.

- Alternatively, the landlord may be able to obtain ECO funding to cover the costs of internal or external wall insulation. If funding is available, they could install this measure instead as it would improve the property above EPC E and no further action would be required.

Example 2

The following recommendations have been made for property B:

Recommended measures	Cost	Rating after improvement
Increase loft insulation	£350	G
Internal or external wall insulation	£9,000	D
Floor insulation	£1,200	G
Low energy lighting	£50	F
Solar panels	£5,000	C

- Based on the above recommendations, the landlord of property B can choose a package of loft insulation, floor insulation and low energy lighting, with a total cost of £1,600. This will not improve the property to E, but there are no further measures which can be selected without pushing the overall costs above £3,500, so the landlord would not be required to install them. The landlord should therefore install the £1,600 package of improvements and then register an exemption on the grounds that: 'all relevant improvements have been made and the property remains below E'.
- Alternatively, the landlord may be able to obtain ECO funding to cover the costs of internal or external wall insulation. If funding is available, they could install this measure instead as it would raise the property above EPC E and no further action would be required.

Example 3

The following recommendations have been made for property C:

Recommended measures	Cost	Rating after improvement
Flat roof insulation	£1,500	E
Floor insulation	£1,200	E
Low energy lighting	£20	G
Heating controls	£450	G
Solar panels	£8,000	C

- Based on the above recommendations, the landlord of property C could choose either to install floor insulation, at a cost of £1,200, or to install flat roof insulation, at a cost of £1,500. Individually, either would improve the property to EPC band E and no further improvements would be required, although they could also choose to install low energy lighting and/or heating controls if they wished, while still keeping their spend within the cap.
17. The Guidance will be updated to reflect the amendment as described above and will include a number of simplified, worked examples to aid understanding. Other advice materials will also be updated, such as the landlord compliance information available via the Simple Energy Advice online advice service. In addition, the PRS Exemptions Register will be updated to reflect the new definition of ‘relevant improvements’.

Question 2b

The cap and VAT

Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?

Decision

18. The Government has decided to make the domestic cost cap inclusive of VAT as per the consultation proposal. This is intended to minimise complexity for landlords, and to create a level of parity for domestic and non-domestic landlords regarding minimum standard expenditure³.

Rationale

19. The majority of respondents (which included landlords and landlord groups) agreed with the proposal to include VAT within the cap. Those who opposed the proposal (mostly Local Authorities and government bodies, assessors and individuals), did so on the basis that the proposed cap (£2,500 at consultation stage) was already too constrained,

³ Under the non-domestic regulations, improvement measures for F and G rated properties must be costed exclusive of VAT. However, landlords of non-domestic properties can claim back VAT, unlike typical domestic sector landlords.

and the inclusion of VAT would further reduce the amount of spend for, and therefore the scope of energy efficiency improvements.

20. Government acknowledges that including VAT within the level of the cap will have an impact on the scale of improvements that can be delivered. It is also accepted that by doing this, Government is setting a treatment of VAT opposite to that required by the non-domestic minimum standard regulations.⁴ However, given the level of the cost cap has now increased to £3,500, and the complexity of excluding VAT from cost cap calculations for landlords, we intend to set the cost cap inclusive of VAT.

Impact

21. The Guidance will be updated to reflect this decision, as will other advice materials, including the landlord compliance information available via the Simple Energy Advice online advice service.

Question 3

Landlord investment in energy efficiency improvements prior to 1 October 2017

Do you agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017?

Decision

22. The Government has decided to adopt the proposal that landlords of EPC F and G rated properties who have previously made energy efficiency improvements to those properties, will only be permitted to count the costs of those improvements towards the cap if the investment was incurred on or after 1 October 2017.

Rationale

23. There was broad agreement from a majority of respondents who supported this cut-off date that, even if a property had received improvement measures in the past, if it nevertheless remains substandard (as defined by the minimum standard regulations), then the landlord concerned should be encouraged to make the further investment to bring their property up to the minimum standard. It was also noted that any significant prior spend – if invested sensibly – would, in all likelihood, have increased the EPC of a property to at least an E anyway, leaving no need for further investment. The proposal was therefore expected to impact on comparatively few properties/landlords.
24. Conversely, some respondents who disagreed with the proposal stressed that efforts by landlords to make improvements prior to October 2017 should not be ignored, particularly if they had invested significant sums to improve their Band F and G properties.
25. The early promotion of the minimum standard requirements from 2015 onwards was indeed intended to encourage early action by landlords prior to the standard taking effect. However, this was on the basis of ‘no cost to the landlord’ and any expenditure incurred therefore, would have been at the discretion of the landlord and not a

⁴ These state that non-domestic landlord costs should be exclusive of VAT.

Amending the domestic private rented sector minimum level of energy efficiency regulations: Government response to consultation

requirement of the regulations. While Government acknowledges that financial investment may have been made to improve Band F and G properties, there is no evidence to show that significant numbers of properties in the private rented sector received energy efficiency improvements prior to October 2017 (either paid for by the landlord or using third-party funding), and yet remain below EPC band E. While we acknowledge there will be occasional instances of landlords having to make (and fund) further investment in their properties after having previously made some level of initial investment, we are not persuaded that an October 2017 cut-off date will disadvantage significant numbers of landlords or represent an unfair requirement.

Impact

26. This decision means that where a particular property is below EPC band E after the commencement date, the landlord will need to consider whether any energy efficiency improvements have been made to the property since October 2017. Where *no improvements have been made* since this date, the landlord will need to make improvements to the property up to a value of the £3,500 cap (unless a valid exemption applies).
27. In instances where energy efficiency improvements *have been made* since October 2017, the landlord may subtract the cost of these previous energy efficiency improvements from the £3,500 limit to determine the value of the additional energy efficiency improvements they will be required to make.
28. The tables below (based on illustrative tables published in the consultation document) demonstrate this principle against a number of example spend scenarios:

Pre-Oct 2017 improvements made to an EPC F or G rated property	Result of pre-Oct 2017 improvements	Action required post 1 April 2018
£2,500 spent on Property	Property improved to EPC E.	Property already meets the standard. No further action required.
£1,000 spent on Property	Property improved from G to F. An additional £4k spend is required to improve to EPC E.	Up to £3.5k additional spend required to improve property (depending on available measures) – even though that spend will not improve the property to EPC E. Following installation, a ‘relevant improvements installed’ exemption should be registered.
£3,000 spent on Property	Property improved from G to F. Would require additional £3k spend to improve to EPC E.	Further £3k spend required even though this will not improve property to EPC E. Following installation, a ‘relevant improvements installed’ exemption should be registered.

Post-Oct 2017 improvements to an EPC F or G rated property	Result of post-Oct 2017 improvements	Action required post 1 April 2018
£1,500 spent on Property	Property improved to EPC E.	Property already meets the standard. No further action required.
£2,000 spent on Property	Property improved from G to F. Would require additional £2k spend to improve to EPC E.	Only a further £1.5k is required to be spent on energy efficiency measures to improve the property – even though the amount of spend would not improve the property to EPC E. Following installation, a ‘relevant improvements installed’ exemption should be registered.
£2,500 spent of Property	Property improved from G to F. Only remaining recommended measure would require additional £4k spend to improve to EPC E.	No further spend is required (as no improvements can be made for £1.5k or less) - even though the property has not been improved to EPC E. The landlord would be eligible for a ‘no relevant improvements’ exemption.

Question 4

The cap and third-party funding

Do you agree with the proposal that where a landlord contributes to the improvement, the cost cap threshold should be inclusive of any funding which can be obtained through a ‘no cost’ finance plan (including a Green Deal finance plan), Supplier Obligation Funding (for example, ECO: Help to Heat or a successor scheme), or energy efficiency grant funding from a local authority or other third parties?

Decision

29. The Government believes there needs to be a fair balance between driving cost-effective energy efficiency improvements in the private rental sector and being mindful of not placing an undue burden on landlords. While there was general disagreement from respondents to the consultation question on how to treat third-party funding, the Government has decided that the cap will be inclusive of any available finance.

Rationale

Green Deal finance

30. The Government has been clear in its aim of supporting and growing a strong green finance market. We therefore believe it would be inconsistent with this aim if we were to exclude Green Deal funding, or any other form of green finance that may be commercially available in the future, from the cost cap. Some consultation respondents argued that Green Deal finance should not be offered in the rental sector at all. A key objection was a perceived unfairness around expecting tenants (the bill payer) to pay off a Green Deal finance plan taken out by their landlord, especially when the nature of the improvements might be expected to benefit landlords in terms of capital value increases of the property. However, while the benefit to landlords is acknowledged, we believe that tenants are properly protected in this area under the Green Deal regulations: tenants already have the right to withhold their consent to a Green Deal finance plan if they object to it, and landlords are required to disclose the existence of a Green Deal finance plan to prospective incoming tenants.

Energy Company Obligation ('ECO')

31. There were particularly strong objections from non-landlord consultation respondents to the inclusion of ECO funding within the cap. As ECO is funded from the household energy bills of obligated energy suppliers⁵, some of which will be low income, vulnerable or fuel poor households⁶, it was argued that landlords – a number of whom operate as businesses - should not be entitled to use this funding to make improvements to their properties. There was also concern that if ECO was permitted within the cap, the additionality of both ECO and minimum standard policies would be reduced.
32. These consultation views on ECO have been taken on board and have been reflected in the design of the next phase of the ECO scheme. On 19 July 2018, the Government published its response to the ECO3 Consultation, which announced that ECO measures are to be restricted for the private rented sector. Under the ECO3 scheme (which is expected to start in autumn 2018) landlords of EPC F and G rated properties will only be able to access ECO funding for higher value measures such as Solid Wall Insulation or renewables measures. As these measures will likely exceed the value of the £3,500 cost cap, the issue of whether to include ECO funding within the level of the cap is no longer directly relevant.
33. We are of the view that refocusing ECO support away from EPC F and G rated privately rented properties is justified in light of the obligation imposed on landlords by the minimum standard regulations, particularly as ECO funding is limited. To permit otherwise would serve to undermine the intent of both Regulations and impact the additionality for both policies.

⁵ The Energy Company Obligation is a requirement on large energy suppliers to install energy efficiency and heating measures in households meeting the eligibility requirements of the scheme or set out in a local authority Statement of Intent under the flexible eligibility part of the scheme.

⁶ This takes on greater significance given the shift in focus of ECO3 to a 100% Affordable Warmth Scheme that will target households who are low income, vulnerable or living in or fuel poverty.

Impact

34. The Guidance will be amended to reflect the inclusion of third-party finance within the cost cap. From a practical perspective, the amendment means that where part funding can be obtained, landlords will only be required to make up such amount, up to the value of the cap, as may be necessary to bring the property up to EPC Band E or as near as technically feasible. Those landlords who may wish to spend more than the cap, will be, of course, at liberty to do so.
35. The following table provides some illustrative examples:

Property requiring £2k of investment to reach EPC E (£3.5k cap)	
Third Party Funding Secured	Landlord Contribution
£2k	£0
£1k	£1k
£0	£2k
Property requiring £2.5k of investment to reach EPC E (£3.5k cap)	
Third Party Funding Secured	Landlord Contribution
£2.5k	£0
£2k	£0.5 k
£0k	£2.5k
Property requiring £5k of investment to reach EPC E (£3.5k cap)	
Third Party Funding Secured	Landlord Contribution
£4k	£0k
£2k	£1.5k, if package of measures and suitable singular measure(s) can be installed to the total value of £3.5k
£0k	£0k, if single measure that costs £5k to install.

Question 5

Inclusion of a regulatory duty to provide cost information?

Do you agree that it is not necessary to place a regulatory duty on energy suppliers, or their agents, to provide landlords with cost information relating to the value of energy efficiency improvements made to the landlord's property through a supplier obligation?

Decision

36. In view of the ECO funding decision discussed above, the Government has decided there is no longer a need to place a regulatory duty on energy suppliers to provide landlords with cost data on the value of energy efficiency measures installed.

Rationale

37. The majority of respondents agreed that it would be inappropriate to place a duty on ECO obligated suppliers. This was on the basis that to do so would have required energy suppliers to disclose potentially commercially sensitive information. Moreover, it was argued that as improvements will vary across suppliers and managing agents, a requirement to share costs had the potential to add further complexity (and cost) to the ECO scheme at a time when Government was seeking to simplify ECO reporting.
38. However, as noted in the response to question four above, ECO scheme funding for lower cost measures will no longer be available for EPC F and G rated private rented sector homes. This restriction on the measures available under ECO therefore, makes the question of disclosure irrelevant.
39. In instances where a landlord is able to obtain ECO funding to install a high cost measure exceeding the value of the cap (such as solid wall insulation or a renewable heating technology), and this measure fails to improve the property to EPC E, the landlord will be able to register an exemption under regulation 25 where all relevant improvements have been made and the property remains below EPC E. In order to register such an exemption a landlord will need to provide details of the measure(s) installed, including dates of installation, but will not be required to provide evidence on the value of the ECO contribution.

Question 6

Evidencing a high cost exemption

Where a landlord is intending to register a ‘high cost’ exemption, should the landlord be required to provide three quotes for the cost of purchasing and installing the measures, in line with the non-domestic minimum standards?

Decision

40. The consultation proposed that, where a landlord wishes to rely on a ‘high cost’ exemption, they should be required to upload to the PRS Exemptions Register copies of three quotations from different installers, each showing that the cost of the recommended improvement exceeds the cap. This proposal mirrors a similar requirement established in the non-domestic provisions and is designed to discourage landlords from registering false ‘high cost’ exemptions. Having considered the responses received, the Government has decided to adopt this proposal.

Rationale

41. As noted in the published Summary of Responses, a majority of consultation respondents (73%), including two leading landlord organisations, the National Landlords Association and the British Property Federation, agreed with the proposal. The respondents who disagreed typically expressed concerns that the process would be onerous and complicated both for landlords and potentially the supply chain. However, those who supported the proposal generally agreed that the domestic and non-domestic regulations should be aligned in this respect, and that a requirement to obtain three quotes was necessary to reduce the risk of false or misleading exemptions being registered.
42. As discussed in the Summary of Responses, BEIS’s modelling suggests that exemptions of this type are very unlikely to be necessary on a regular basis. The overwhelming majority of properties are likely to be able to benefit from at least one measure costing less than the £3,500 cap. In cases where the measure, or measures, installed fail to improve the property to EPC E, the landlord would be able to register an exemption under regulation 25 where: ‘all relevant improvements have been made and the property remains below E’. In order to register such an exemption a landlord needs to provide details of the measure(s) installed, including dates of installation, but is not required to provide copies of quotes. A ‘high cost’ exemption will only be required in cases where all recommended measures exceed the value of the cap.

Impact

43. The published Guidance will be updated to reflect the ‘three quotes’ requirement when a landlord is registering a ‘high cost’ exemption. This will state that where a landlord is intending to rely on an exemption because a recommended measure exceeds the value of the cap, they (or their agent on their behalf) will be required to provide:

- Copies of three quotes for the cost of purchasing and installing the measure(s) (inclusive of VAT) from qualified installers, demonstrating that the measure(s) exceeds the cost cap; and
 - Confirmation that the landlord is satisfied that the measure(s) exceeds the cost cap.
44. The domestic PRS Exemptions Register will be updated to facilitate the uploading of the three quotes.

TrustMark

When investigating improvement works, landlords and other property owners and agents may use any tradesperson they wish. However, when selecting installers to quote for and undertake energy efficiency works, they may wish to search for those with the [TrustMark](#)⁷ certification. TrustMark is the Government endorsed quality scheme for trades in and around the home, including for many energy efficiency related improvements. TrustMark registered business are required to meet industry standards and provide appropriate guarantees and protections for all work carried out in the home. Registered businesses must be accredited through recognised scheme operators and are subject to audit and on-site inspections to ensure the firm is maintaining and raising industry standards.

TrustMark accreditation is designed to give customers reassurance of quality and protection from rogue traders. TrustMark is the only government endorsed 'find a tradesperson' scheme to cover all three cornerstones of quality: good trading practices, good customer services, and technical competence.

Question 7

Curtailing the validity of any existing 'no cost' exemptions

Do you agree with the proposal to limit the validity of any 'no cost to the landlord' exemptions (under Regulation 25(1)(b)) registered between October 2017 and the point at which a capped landlord contribution amendment comes into force?

Decision

45. The Government has decided to adopt a variation on this proposal. The validity of any existing 'no cost' exemptions will now end for individual properties on 1 April 2020, which is the backstop date for the current regulations⁸.

⁷ <https://www.trustmark.org.uk/>

⁸ 'Backstop date': The date on which the regulations will apply to all tenancies, whether pre-existing, entering into force on or created as from 1 April 2020.

Rationale

46. The existing regulations permit landlords to register an exemption where they are unable to make improvements to an EPC F or G rated property 'at no cost to [themselves]'. To date approximately 1,800 such exemptions have been registered on the PRS Exemptions Register and at present these are due to expire five years from the date of registration. The consultation sought views on whether these existing 'no cost to the landlord' exemptions should be cancelled at the point at which the capped landlord contribution amendment comes into force. This would mean that these landlords would no longer be able to rely on these exemptions and would be required to take action immediately to improve their EPC F or G properties up to the value of the cap.
47. A majority of respondents agreed with the proposal, stating that curtailing existing exemptions would accelerate the number of properties improved under the new funding requirements. They typically commented that, if the forthcoming regulatory amendments were made clear by the Autumn of 2018, landlords would still have sufficient time to reassess their existing exemptions and plan their next steps. Finally, these respondents contended that resetting the landlord requirement from a single date would create a level playing field between those landlords who have already experienced a tenancy change since April 2018 and have registered an exemption, and those who have not.
48. Those opposed to the proposal expressed concerns that a move to end all such exemptions early would be too blunt and could inconvenience both landlords and tenants where a tenancy was ongoing at that date (as such an amendment could require the landlord to make improvements while the tenant was in situ).
49. While it is acknowledged that this amendment will reduce the length of existing exemptions, Government is persuaded that the change is proportionate, and is necessary if the amended regulations are to achieve their purpose. In order to minimise any disruption to landlords who have exercised an exemption, and their tenants, who would be in situ, the date by which compliance is required will be set at 1 April 2020, the 'back stop' date for the current regulations. We believe this strikes a balance between needing to change the law to allow the amended regulations to work effectively, while also recognising that landlords who had registered exemptions previously and relied in good faith on the exemption running for five years, might see it as a particular hardship to have to act by April 2019.

Impact

50. The existing Guidance will be updated to reflect this regulatory amendment, and all landlords who have registered 'no cost' exemptions will be contacted personally via the Exemptions Register to alert them in good time to the adjusted exemption length. In addition, the PRS Exemptions Register will be updated so that all 'no cost' exemptions are automatically cancelled on 31 March 2020, and the landlord alerted of this electronically.

Question 8

Removing the tenant consent exemption

Do you have views on whether the ‘tenant confirmation’ consent exemption under Regulation 31(1)(a)(ii) should be removed from the minimum standard regulations or retained?

Decision

51. In light of the consultation responses received, Government has decided to remove the ‘tenant confirmation’ consent exemption currently available under regulation 31(1)(a)(ii), where a sitting tenant withholds their consent to a Green Deal finance plan. This means that, in cases where a landlord has secured Green Deal finance but a sitting tenant withholds their consent to the plan, the landlord will be unable to claim an exemption on that ‘consent withheld’ basis and must seek alternative means of financing the required improvements, up to and including making a financial contribution themselves.

Rationale

52. As discussed in the consultation document, the current minimum standard regulations provide landlords with an exemption from carrying out improvement works where they are intending to fund improvements using Green Deal finance, but their tenant withholds their consent to the Green Deal charge being added to their electricity bill. 70% of consultation respondents felt that this category of consent exemption should be removed, ensuring that tenants could still benefit from improvements even where they do not wish to take on responsibility for a Green Deal finance plan.
53. Respondents typically argued that this would remove a perceived loophole and would also remove a risk that landlords may see an opportunity to claim an exemption by persuading sitting tenants to withhold their consent. As discussed earlier (at response 4) many respondents also expressed a general view that Green Deal was an inappropriate finance mechanism for the rental sector as they felt that tenants should not be covering the costs of energy efficiency improvements made to a property.
54. In contrast, landlord groups (e.g. the Residential Landlords Association, National Landlords Association, Country Land and Business Association and British Property Federation) highlighted potential coercion as a reason why the exemption should remain. They argued that if a landlord was required to fund improvements themselves in cases where the tenant withheld consent to a Green Deal plan, that may encourage landlords to ensure that their tenant did agree to any Green Deal plan which might be available, even where the tenant did not really want it. While Government accepts that this remains a slight risk, we believe that adequate protections already exist for energy bill paying tenants within the existing Green Deal consumer protection framework, and we are persuaded that the removal of this exemption is reasonable.
55. In situations where a landlord is able to secure Green Deal finance and they wish to use this to cover the costs of the improvements, then installing measures and attaching the

charge to the electricity meter during a rental void period will by-pass the need to seek tenant consent. As the minimum standard regulations are designed to take effect at the start of new tenancy agreements, the void between tenancies should act as a natural break point in many cases. Where improvements have been funded using Green Deal finance, the landlord will be obliged to disclose the existence of the Green Deal charge to prospective tenants before any new tenancy agreement is entered into. This is to ensure that a prospective tenant can take this into account when considering whether to rent the property.

Impact

56. The formal guidance on the minimum standard regulations will be amended to reflect the consent exemption change, advising landlords to seek alternative means of funding if tenant consent to a Green Deal plan is withheld.
57. We also confirm that removal of this type of consent exemption will not interfere with a tenant's right to withhold consent to a Green Deal finance plan as set out in *The Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012*, and nor will it interfere with the existing, overarching right of a sitting tenant to withhold consent to energy efficiency improvements (or any other types of improvements) to a property while they remain the tenant. Where a sitting tenant in an EPC F or G rated property withholds their consent to their landlord making energy efficiency improvements (for example because they believe the 'hassle factor' will interfere with their enjoyment of the property), the landlord will still be able to register a consent exemption on this basis, as is currently the case.

Question 9

Additional considerations

Do you have any comments on the policy proposals not raised under any of the above questions?

58. A range of topics ancillary to the consultation proposals were put forward by respondents. Three areas that provoked the greatest concern were energy performance certificates, including certification in respect of houses of multiple occupation ('HMOs'); the overlap between the minimum standard regulations and the Health and Safety Rating System (HHSRS), and the (in)ability of domestic landlords to offset the cost of making improvements against their tax liability and as a consequence the need for a system such as the former Landlords Energy Savings Allowance ('LESA').

The Health and Safety Rating System (HHSRS)

59. The thrust of the comments received regarding the HHSRS suggests that there is confusion about the interaction between the minimum energy efficiency standard, and the HHSRS cold hazard classification, especially where an F or G rated property has a minimum standard exemption. The HHSRS sets overarching standards for accommodation, including requirements on landlords to ensure that properties contain no cold hazard breaches. The published guidance on the domestic minimum standard regulations already states that even where an EPC F or G rated rental property has a valid exemption from meeting the EPC E standard, this exemption does not excuse them from meeting the existing obligation to maintain that property in a safe and 'healthy' state, including ensuring the property contains no category 1 cold hazards. Failure to do so may result in HHSRS enforcement action regardless of the fact that the property may be exempt from the minimum level of energy efficiency.
60. Despite this, the comments received as part of the consultation make clear that more needs to be done to clarify and communicate this position. BEIS will work with MHCLG, the Chartered Institute of Environmental Health, and other interested stakeholders to ensure that a clear policy position and approach is agreed and imbedded.

Energy Performance Certificates ('EPCs')

61. Comments received on EPCs generally related to their quality and use for the purposes of the minimum standard regulations. While some respondents noted that EPCs had the benefit of being an established and fairly well understood product, others argued that the variability in both the quality of the certificate itself, and (perceived) training of EPC assessors, rendered EPCs unsuitable as a tool for setting and measuring a minimum standard. STROMA, one of the EPC accreditation bodies, highlighted the potential for the minimum standard regulations to lead to pressures on energy assessors to falsify EPCs to show a Band E or above. Other respondents, while content with EPCs as a tool, argued that the minimum standard should be set according to the EPC carbon metric rather than the EPC cost metric as is currently the case.
62. EPCs are currently the subject of a Government [Call for Evidence](#) published on 26 July 2018, which closed on 19 October 2018. This document seeks evidence on the effectiveness of the current EPC tool, as well as gathering information on the suitability of the system of EPCs for both their current and emerging uses. We also hope to obtain feedback on suggestions for improvement. The comments received on EPCs as part of the PRS Consultation will be taken into account when analysing responses to the Call for Evidence later in the autumn.
63. With respect to comments received regarding houses in multiple occupation ('HMOs') and the fact that they are currently out of the scope of the minimum standard regulations, the Call for Evidence has sought views on whether HMOs should be required to have an EPC when individual rooms are let. In the event that EPC regulations are updated to include HMO lettings, then HMOs will automatically be caught by the minimum standard regulations.

Landlords Energy Savings Allowance (LESA)

64. A significant number of respondents felt that the minimum standard regulations would be afforded greater momentum if domestic landlords, like non-domestic landlords, could offset the costs of making energy efficiency improvements against their tax liability. Reference was made to the LESA, which ended in 2015 and gave landlords a maximum allowance of £1,500 per dwelling house for the purchase and installation of certain energy saving measures in the properties they rented out. In light of the obligation that the amended minimum standard regulations will place on landlords of EPC F & G rated properties and the availability of third-party funding options for landlords it is not intended at this time to recreate a similar LESA scheme.

Question 10a, 10b,10c

Impact Assessment and evidence questions

10a. Do you have any evidence or comments regarding the consultation impact assessment (including views on any of the assumptions we have made to support our analysis), which could inform the final stage impact assessment?

10b. Do you have any evidence or information on the potential for these proposals to impact on the PRS market, including any potential for landlords who are required to act by the minimum standard regulations to pass through costs to tenants after making improvements to their properties?

10c. Can you provide any evidence on the likely costs associated with the compilation of evidence in advance of registering an exemption on the PRS Exemptions Register?

65. Based on feedback on the Consultation Impact Assessment (IA), the Final Stage IA now includes estimates of the benefit to landlords of increased property value as a result of improving the energy efficiency of their properties, based on hedonic pricing information. The other benefits to landlords such as reduced property maintenance and void periods are currently harder to quantify. We will continue to update our evidence base around the additional benefits of improving the energy efficiency of properties in the rental sector. Many respondents also felt that health benefits should be included in the IA. We are unable to include these benefits in the New Present Value calculation at present, due to a potential overlap with comfort taking benefits, but do cite them separately as an additional benefit.
66. Although some respondents felt enforcement costs should be higher and compliance costs should be lower, we did not receive any new statistically robust evidence. Pilot projects are due to be run with a limited number of local authorities to explore different enforcement practices and their cost, and these should provide Government with a reliable evidence base for estimating future enforcement costs. Similarly, the evaluation of this policy will help us better understand landlord compliance costs.

This publication is available from: <https://www.gov.uk/government/consultations/domestic-private-rented-sector-minimum-level-of-energy-efficiency> If you need a version of this document in a more accessible format, please email enquiries@beis.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.