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DRAFT STATUTORY INSTRUMENTS

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**2015 No.**

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

**PART 3**

Minimum level of energy efficiency

CHAPTER 4

Exemptions – domestic and non-domestic PR property

**Consent exemption**

**31.**—(1) Subject to paragraph (2), regulations 23 and 27 do not apply at any time when the landlord has, within the preceding five years, been unable to increase the energy performance indicator for the property to not less than the minimum level of energy efficiency as a result of—

- (a) the tenant refusing—
  - (i) consent to any relevant energy efficiency improvement being made, or
  - (ii) to give any confirmation which must be obtained from the tenant by virtue of regulation 36 of the Framework Regulations before any green deal plan with which the landlord proposed to fund the making of the relevant energy efficiency improvement could be entered into, or
- (b) despite reasonable efforts by the landlord to obtain third party consent, that consent having been—
  - (i) refused, or
  - (ii) granted subject to a condition with which the landlord cannot reasonably comply.

(2) A landlord may rely on the exemption in paragraph (1) only where the landlord has registered information in accordance with regulation 36(2).

**Devaluation exemption**

**32.**—(1) Subject to paragraph (3), regulations 23 and 27 do not apply at any time when, within the preceding five years, the landlord been unable to increase the energy performance indicator for the property to not less than the minimum level of energy efficiency because paragraph (2) applies.

(2) This paragraph applies where the landlord has not made a relevant energy efficiency improvement because the landlord has obtained a report prepared by an independent surveyor which states that making that relevant energy efficiency improvement would result in a reduction of more than 5% in the market value of the property, or of the building of which it forms part.

(3) A landlord may rely on the exemption in paragraph (1) only where the landlord has registered information in accordance with regulation 36(2).

### Temporary exemption in certain circumstances

33.—(1) Subject to paragraph (5), regulations 23 and 27 do not apply to a landlord until six months after whichever is the later of—

- (a) the date on which the landlord becomes, or continues to be, the landlord of that property by virtue of any of the circumstances set out in paragraph (2), or
- (b) the date on which an order falling within paragraph (2)(f) is made.

(2) The circumstances referred to in paragraph (1) are—

- (a) the grant of a lease pursuant to a contractual obligation,
- (b) a tenant's insolvency, by virtue of the landlord having been the tenant's guarantor,
- (c) the landlord having been a guarantor, or a former tenant, who has exercised the right to obtain an overriding lease of a property pursuant to section 19 of the Landlord and Tenant (Covenants) Act 1995<sup>(1)</sup>,
- (d) the deemed creation of a new lease by operation of law,
- (e) the grant of a new lease pursuant to the provisions of Part 2 of the Landlord and Tenant Act 1954<sup>(2)</sup>,
- (f) the grant of a lease by order of the court not falling within sub-paragraph (e).

(3) Subject to paragraph (5), regulation 23(2)(b) and regulation 27(2)(b) do not apply to a person until six months from the date on which the person becomes the landlord by virtue of the circumstances set out in paragraph (4).

(4) The circumstances referred to in paragraph (3) are—

- (a) the landlord became the landlord of the domestic PR property, or non-domestic PR property (as the case may be), on purchasing an interest in that property, and
- (b) on the date of the purchase, the property was let on an existing tenancy.

(5) A landlord may rely on a temporary exemption in paragraph (1) or paragraph (3) only where the landlord has registered information in accordance with regulation 36(2).

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(1) 1995 c.30.  
(2) 1954 c.56.