
DRAFT STATUTORY INSTRUMENTS

2015 No.

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

PART 3

Minimum level of energy efficiency

CHAPTER 3

Non-domestic PR property falling below the minimum level of energy efficiency

Prohibition on letting of sub-standard non-domestic PR property

27.—(1) A landlord of a sub-standard non-domestic PR property must not let the property unless regulation 29, or one or more of the exemptions in Chapter 4, applies.

(2) For the purposes of paragraph (1), “let the property” means—

- (a) on or after 1st April 2018, grant a new tenancy which falls within section 42(1)(b) of the Act, or let the property on such a tenancy as a result of an extension or renewal of an existing tenancy, or
- (b) on or after 1st April 2023, continue to let the property on such a tenancy.

Relevant energy efficiency improvements

28.—(1) Subject to paragraph (2), for the purposes of paragraph (a) in the definition of “relevant energy efficiency improvements” in section 49(4) of the Act, a relevant energy efficiency improvement is an energy efficiency improvement—

- (a) which is listed in—
 - (i) the Schedule to the Green Deal (Qualifying Energy Improvements) Order 2012, or
 - (ii) Table 6 of the Building Regulations Approved Document L2B(1), and
- (b) has been identified as a recommended improvement for that property in a green deal report, a recommendation report, or a report prepared by a surveyor.

(2) An energy efficiency improvement which falls within any of paragraphs (d), (n) or (v) of the Schedule to the Green Deal (Qualifying Energy Improvements) Order 2012 is not a relevant energy efficiency improvement where the landlord has obtained a written opinion from—

- (a) a relevant person, or
- (b) an independent installer of the energy efficiency improvement in question who meets the relevant installer standards,

(1) “Building Regulations Approved Document L2B: Conservation of fuel and power in existing buildings other than dwellings” ISBN 978 1 85946 327 7, published in December 2010.

advising that it is not an appropriate improvement, due to its potential negative impact on the fabric or structure of the non-domestic PR property, or the building of which it forms part, and the landlord has registered information in accordance with regulation 36(2).

(3) For the purposes of paragraph (b)(ii) in the definition of “relevant energy efficiency improvements” in section 49(4) of the Act, an energy efficiency improvement listed in Table 6 of the Building Regulations Approved Document L2B is a relevant energy efficiency improvement for a property where the improvement would achieve a simple payback of seven years or less.

(4) A relevant energy efficiency improvement achieves “a simple payback of seven years or less”, if it is calculated that the value of savings (“S”) is the same as or greater than the calculated repayment cost (“R”).

(5) For the purposes of paragraph (4), S is the value of savings on energy bills for the property that the relevant energy efficiency improvement is expected to achieve over a period of seven years beginning with the date of the completion of the installation of the improvement, calculated—

- (a) using the approved methodology,
- (b) using relevant energy prices.

(6) For the purposes of paragraph (4), R is the cost of the relevant energy efficiency improvement (“C”), multiplied by the interest rate factor (“F”), where—

- (a) C is the sum of—
 - (i) the cost of purchasing the improvement, and
 - (ii) the cost of installing the improvement (including labour costs), calculated using labour and installation costs as at the date the calculation is made, excluding value added tax, and
- (b) F is calculated as follows—

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

where i is the Bank of England base rate in force at the time of the calculation.

(7) For the purposes of paragraph (5), a “relevant energy price”, in relation to a supply of energy to a property, means the “unit cost” of the supply of that energy to the property, excluding value added tax—

- (a) where the landlord has energy bills for the supply of that energy to the property for the 12 month period which ends on the date of the most recent energy bill for that supply, calculated by dividing the total cost of the supply of that energy for that 12 month period (including any fixed cost charged by the supplier of that energy), by the number of units supplied in that 12 month period,
- (b) where the landlord has energy bills for the supply of that energy to the property for a period of less than 12 months in the 15 month period which ends on the date that the calculation is made, calculated by—
 - (i) estimating the total cost of the supply of that energy for the 12 month period which ends on the date that the calculation is made (including any fixed cost charged by the supplier of that energy) (“EC”), and the number of units of that energy that would be supplied in that 12 month period (“EU”), based on those energy bills, and
 - (ii) dividing EC by EU, or
- (c) where the landlord has no energy bills for the supply of that energy to the property for the 12 month period which ends on the date the calculation is made, using the cost per unit for the supply of that energy charged by the landlord’s current, or intended, supplier of that energy on the date the calculation is made.

- (8) In paragraph (6), “Bank of England base rate” means—
- (a) the rate announced from time to time by the Monetary Policy Committee⁽²⁾ of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
 - (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.

Relevant energy efficiency improvements undertaken

- 29.**—(1) Subject to paragraph (2), this regulation applies where—
- (a) the landlord of a sub-standard non-domestic PR property has made all the relevant energy efficiency improvements for the property, or
 - (b) there are no relevant energy efficiency improvements that can be made to the property.
- (2) This regulation applies for a period of five years starting with the date on which the landlord registers information in accordance with regulation 36(2).

Sub-standard property let in breach of these Regulations

30. In any case where a landlord lets, or continues to let, a non-domestic PR property in breach of regulation 27, that breach does not affect the validity or enforceability of any provision of the tenancy.

(2) The Monetary Policy Committee was constituted on a statutory basis by section 13 of the Bank of England Act 1998 (c.11).