
DRAFT STATUTORY INSTRUMENTS

2015 No.

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

PART 3

Minimum level of energy efficiency

CHAPTER 1

Interpretation of Part 3

Domestic PR property

19.—(1) For the purposes of this Part, “domestic PR property” means a property which falls within section 42(1)(a) of the Act, subject to paragraph (2).

(2) A property is not a domestic PR property if—

- (a) it was not required, and is not part of a building which was required, to have an energy performance certificate⁽¹⁾ by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007, and
- (b) it is not required, and is not part of a building which is required, to have an energy performance certificate by the Building Regulations 2010 or the EPB Regulations.

Non-domestic PR property

20.—(1) For the purposes of this Part, “non-domestic PR property” means a property which falls within section 42(1)(b) of the Act, subject to paragraphs (2) and (3).

(2) A property is not a non-domestic PR property if—

- (a) it was not required, and is not part of a building which was required, to have an energy performance certificate by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007, and
- (b) it is not required, and is not part of a building which is required, to have an energy performance certificate by the Building Regulations 2010 or the EPB Regulations.

(3) A property is not a non-domestic PR property if it is let—

- (a) on a tenancy granted for a term certain not exceeding six months, unless—
 - (i) the tenancy agreement contains provision for renewing the term or for extending it beyond six months from its beginning, or

(1) “Energy performance certificate” has the meaning given in sections 43(4) and 49(4) of the Act. That is, by virtue of section 42(3) of the Act, the meaning given in the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991). Those Regulations were revoked and replaced by the Energy Performance of Buildings (England and Wales) Regulations 2012, regulation 2(1) of which contains the definition of energy performance certificate.

- (ii) at the time when the tenancy is granted, the tenant has been in occupation for a continuous period which exceeds 12 months, or
- (b) on a tenancy granted for a term certain of 99 years or more.

Landlord and tenant

21. For the purposes of this Part—

- (a) “tenant” means a person to whom—
 - (i) a domestic PR property is let on a tenancy which falls within section 42(1)(a) of the Act, or
 - (ii) a non-domestic PR property is let,
- (b) “landlord” means a person who lets, or proposes to let—
 - (i) a domestic PR property on a tenancy which falls within section 42(1)(a) of the Act, or
 - (ii) a non-domestic PR property.

Sub-standard property

22. For the purposes of this Part—

- (a) a domestic PR property, or a non-domestic PR property, is “sub-standard” where the valid energy performance certificate expresses the energy performance indicator of the property as being below the minimum level of energy efficiency,
- (b) “minimum level of energy efficiency”, in relation to a domestic PR property and a non-domestic PR property, means an energy performance indicator of band E,
- (c) an energy performance certificate for a property is “valid” where—
 - (i) it was entered on the register required to be maintained by regulation 27(1) of the EPB Regulations no more than 10 years before the date on which it is relied on for the purposes of these Regulations, and
 - (ii) no other energy performance certificate for the property has since been entered on that register.

CHAPTER 2

Domestic PR property falling below the minimum level of energy efficiency

Prohibition on letting of sub-standard property

23.—(1) A landlord of a sub-standard domestic PR property must not let the property unless regulation 25, 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)(a) 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 after 1st April 2020, continue to let the property on such a tenancy.

Relevant energy efficiency improvements

24.—(1) Subject to paragraph (2), for the purposes of paragraph (a) in the definition of “relevant energy efficiency improvements” in section 43(4) of the Act, a relevant energy efficiency improvement is an energy efficiency improvement—

- (a) which—
 - (i) falls within sub-paragraph (a) of the definition of “energy efficiency improvement” in regulation 2(1) and is listed in the Schedule to the Green Deal (Qualifying Energy Improvements) Order 2012, and
 - (ii) is identified as a recommended improvement for that property in a green deal report, a recommendation report, or a report prepared by a surveyor, or
- (b) which falls within sub-paragraph (b) of the definition of “energy efficiency improvement” in regulation 2(1).

(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,

advising that it is not an appropriate improvement, due to its potential negative impact on the fabric or structure of the 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)(iv) in the definition of “relevant energy efficiency improvements” in section 43(4) of the Act, an energy efficiency improvement is a relevant energy efficiency improvement where the cost of purchasing and installing it—

- (a) can be wholly financed, at no cost to the landlord, by means of funding provided by central government, a local authority, or any other person, or
- (b) can be wholly financed by a combination of two or more of the financial arrangements in paragraph (a), and paragraph (b)(i) to (iii) in the definition of “relevant energy efficiency improvements” in section 43(4) of the Act.

Relevant energy efficiency improvements undertaken

25.—(1) Subject to paragraph (2), this regulation applies where—

- (a) the landlord of a sub-standard 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

26. In any case where a landlord lets, or continues to let, a domestic PR property in breach of regulation 23, that breach does not affect the validity or enforceability of any provision of the tenancy.

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(2), 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,

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—

(2) “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.

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

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⁽³⁾ 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.

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

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(4),

(4) 1995 c.30.

- (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⁽⁵⁾,
 - (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).

CHAPTER 5

Enforcement Authorities and Compliance – domestic and non-domestic PR property

Enforcement authorities

- 34.**—(1) In this Part “enforcement authority”—
- (a) in relation to a domestic PR property means a local authority,
 - (b) in relation to a non-domestic PR property means a local weights and measures authority⁽⁶⁾.
- (2) An enforcement authority must enforce compliance with the requirements of this Part in relation to properties in its area.

Authorised officers

35. Where an enforcement authority appoints an authorised officer of that enforcement authority to exercise its powers under this Chapter, except in this regulation any reference to an “enforcement authority” is to be read as including a reference to that authorised officer of that enforcement authority.

PRS Exemptions Register

- 36.**—(1) The Secretary of State must establish and maintain a system (the “PRS Exemptions Register”) which enables—
- (a) information to be registered in accordance with paragraph (2) or regulation 37(2),
 - (b) the Secretary of State and enforcement authorities to access information registered on it, and held on it, as necessary to enable them to carry out their functions under these Regulations, and
 - (c) the Secretary of State to publish the following information relating to any domestic PR property, or non-domestic PR property, in respect of which information has been registered in accordance with paragraph (2)—
 - (i) the address of the property,
 - (ii) where the landlord is not an individual, the name of the landlord,

⁽⁵⁾ 1954 c.56.

⁽⁶⁾ A local weights and measures authority is defined in section 69(1) and (2) of the Weights and Measures Act 1985 (c.72). Section 69(2) was amended by paragraph 75 of Schedule 16 to the Local Government (Wales) Act 1994 (c.19).

- (iii) the exemption relied on,
- (iv) a copy of the valid energy performance certificate for the property,
- (v) the date on which information was registered in accordance with paragraph (2), and
- (d) every enforcement authority to publish information in accordance with regulation 39.

(2) In any case where a landlord of a sub-standard domestic PR property, or a sub-standard non-domestic PR property, wishes to rely on one or more of the following regulations, the landlord must register the information set out in the Schedule on the PRS Exemptions Register—

- (a) regulation 24(2),
- (b) regulation 25,
- (c) regulation 28(2),
- (d) regulation 29,
- (e) regulation 31(1),
- (f) regulation 32(1),
- (g) regulation 33(1) or (3).

Compliance notices

37.—(1) An enforcement authority may, on or after 1st April 2018, serve a notice (a “compliance notice”) on L where L appears to it to be, or to have been at any time within the 12 months preceding the date of service of the compliance notice, in breach of one or more of the following—

- (a) regulation 23,
- (b) regulation 27,

requesting such information as it considers necessary to enable it to monitor compliance with this Part.

(2) A compliance notice may in particular request L to produce for inspection originals, or copies, of the following—

- (a) the energy performance certificate for the property which was valid at the time the property was let,
- (b) any other energy performance certificate for the property in L’s possession,
- (c) any current tenancy agreement under which the property is let,
- (d) any qualifying assessment in relation to the property,
- (e) any other document which the enforcement authority considers necessary to enable it to carry out its functions under this Part,

and may request L to register copies of any of them on the PRS Exemptions Register

(3) A compliance notice must specify—

- (a) the name and address of the person to whom the documents or other information required must be provided, and
- (b) the date by which they must be provided which must be no less than one month from the date on which the compliance notice is served.

(4) L must—

- (a) comply with the compliance notice, and
- (b) allow the enforcement authority to take copies of any original document produced.

(5) A compliance notice may be varied or revoked in writing at any time by the enforcement authority that issued it.

(6) An enforcement authority may take into account any information held by it, whether or not provided to it in accordance with this regulation, in determining whether L has complied with this Part.

CHAPTER 6

Penalties – domestic and non-domestic PR property

Penalty notices

38.—(1) An enforcement authority may, on or after 1st April 2018, serve a notice on L (a “penalty notice”) in any case where it is satisfied that L is, or has been at any time in the 18 months preceding the date of service of the penalty notice, in breach of one or more of the following—

- (a) regulation 23,
- (b) regulation 27,
- (c) regulation 37(4)(a),

imposing a financial penalty, a publication penalty, or both a financial penalty and a publication penalty, in accordance with this Chapter.

(2) A penalty notice must—

- (a) specify the provision of these Regulations which the enforcement authority believes L has breached,
- (b) give such particulars as the enforcement authority considers necessary to identify the matters constituting the breach,
- (c) specify—
 - (i) any action the enforcement authority requires L to take to remedy the breach,
 - (ii) the period within which such action must be taken,
- (d) specify—
 - (i) the amount of any financial penalty imposed and, where applicable, how it has been calculated,
 - (ii) whether the publication penalty has been imposed,
- (e) require L to pay any financial penalty within a period specified in the notice,
- (f) specify the name and address of the person to whom any financial penalty must be paid and the method by which payment may be made,
- (g) state the effect of regulations 42 to 45, and
- (h) specify—
 - (i) the name and address of the person to whom a notice requesting a review in accordance with regulation 42 may be sent (and to whom any representations relating to the review must be addressed), and
 - (ii) the period within which such a notice may be sent.

(3) Each of the periods specified under paragraph (2)(c) and (e) must not be less than one month, beginning on the day on which the penalty notice is served.

(4) Where L fails to take the action required by a penalty notice within the period specified in that penalty notice in accordance with paragraph (2)(c), the enforcement authority may issue a further penalty notice.

Publication penalty

39.—(1) In this Chapter, the “publication penalty” means publication on the PRS Exemptions Register of such of the following information in relation to a penalty notice as the enforcement authority decides—

- (a) where L is not an individual, L’s name,
- (b) details of the breach of these Regulations in respect of which the penalty notice has been issued,
- (c) the address of the property in relation to which the breach has occurred, and
- (d) the amount of any financial penalty imposed.

(2) The information in paragraph (1) must be published for a minimum period of 12 months, and may be published for such longer period as the enforcement authority may decide.

(3) A publication penalty does not take effect until—

- (a) the period specified for requesting a review under regulation 38(2)(h)(ii) has expired or, where a review has been requested, the enforcement authority has not served notice of its decision under regulation 42(2)(c), and
- (b) the period specified for any appeal against the penalty notice has expired or, where an appeal is made, until the appeal has been determined.

Breaches in relation to domestic PR property

40.—(1) The penalties set out in this regulation apply where L is, or was, the landlord of a domestic PR property.

(2) Where L has breached regulation 23 and, at the time the penalty notice is served has, or had, been in breach for less than three months, the penalties are—

- (a) a financial penalty not exceeding £2,000, and
- (b) the publication penalty.

(3) Where L has breached regulation 23 and, at the time the penalty notice is served has, or had, been in breach for three months or more, the penalties are—

- (a) a financial penalty not exceeding £4,000, and
- (b) the publication penalty.

(4) Where L has registered false or misleading information under regulation 36(2), the penalties are—

- (a) a financial penalty not exceeding £1,000, and
- (b) the publication penalty.

(5) Where L has failed to comply with a compliance notice in breach of regulation 37(4)(a), the penalties are—

- (a) a financial penalty not exceeding £2,000, and
- (b) the publication penalty.

(6) Where an enforcement authority imposes financial penalties on L in relation to a breach of regulation 23 in respect of a domestic PR property—

- (a) under paragraph (2) or (3), and
- (b) under one or both of paragraphs (4) and (5),

the total of the financial penalties imposed on L must be no more than £5,000.

Breaches in relation to non-domestic PR property

41.—(1) The penalties set out in this regulation apply where L is, or was, the landlord of a non-domestic PR property.

(2) Where L has breached regulation 27 and, at the time the penalty notice is served has, or had, been in breach for less than three months, the penalties are—

- (a) a financial penalty not exceeding whichever is the greater of—
 - (i) £5,000, and
 - (ii) 10% of the rateable value of the property,provided that the financial penalty must not exceed £50,000, and
- (b) the publication penalty.

(3) Where L has breached regulation 27 and, at the time the penalty notice is served has, or had, been in breach for three months or more, the penalties are—

- (a) a financial penalty not exceeding whichever is the greater of—
 - (i) £10,000, and
 - (ii) 20% of the rateable value of the property,provided that the financial penalty must not exceed £150,000, and
- (b) the publication penalty.

(4) Where L has registered false or misleading information under regulation 36(2), or has failed to comply with a compliance notice in breach of regulation 37(4)(a), the penalties are—

- (a) a financial penalty not exceeding £5,000, and
- (b) the publication penalty.

(5) In this regulation—

“local non-domestic rating list” means a local non-domestic rating list maintained in accordance with section 41 of the Local Government Finance Act 1988(7),

“rateable value”, in relation to a non-domestic PR property, means the rateable value shown for the property on a local non-domestic rating list at the time the penalty notice is served.

Reviews, waiving and modification of penalties

42.—(1) L may, within the period specified under regulation 38(2)(h)(ii), serve notice on the enforcement authority requesting a review of its decision to serve a penalty notice.

(2) Where L gives notice in accordance with paragraph (1), or where the enforcement authority decides to review its decision to serve a penalty notice in any other case, the enforcement authority must—

- (a) consider any representations made by L and all other circumstances of the case,
 - (b) confirm or withdraw the penalty notice, and
 - (c) serve notice of its decision to L.
- (3) If, on a review under paragraph (2), the enforcement authority—
- (a) ceases to be satisfied that L committed the breach specified in the penalty notice,
 - (b) is satisfied that L took all reasonable steps and exercised all due diligence to avoid committing the breach specified in the penalty notice, or

(7) 1988 c.41. Section 41 was amended by paragraphs 19 and 79(3) of Schedule 5 to the Local Government and Housing Act 1989 (c.42), paragraph 59 of Schedule 13 to the Local Government Finance Act 1992 (c.14), section 60(1) of the Local Government Act 2003 (c.26), and sections 29(2) to (5) and 30(2) of the Growth and Infrastructure Act 2013 (c.27).

- (c) decides that in the circumstances of the case it was not appropriate for a penalty notice to be served on L,
- the enforcement authority must serve a further notice on L withdrawing the penalty notice.
- (4) A notice confirming the penalty notice must state the effect of regulations 43 to 45.
 - (5) On a review under paragraph (2), the enforcement authority may—
 - (a) waive a penalty,
 - (b) allow L additional time to pay any financial penalty,
 - (c) substitute a lower financial penalty where one has already been imposed, or
 - (d) modify the application of a publication penalty.

CHAPTER 7

Appeals and recovery of financial penalties – domestic and non-domestic PR property

Appeals

- 43.** If, after a review, a penalty notice is confirmed by the enforcement authority, L may appeal to the First-tier Tribunal on the grounds that—
- (a) the issue of the penalty notice was based on an error of fact,
 - (b) the issue of the penalty notice was based on an error of law,
 - (c) the penalty notice does not comply with a requirement imposed by these Regulations, or
 - (d) in the circumstances of the case it was inappropriate for the penalty notice to be served on L.

Effect and determination of Appeal

- 44.—**(1) The bringing of an appeal suspends the penalty notice being appealed taking effect, pending determination or withdrawal of the appeal.
- (2) The First-tier Tribunal may—
 - (a) quash the penalty notice, or
 - (b) affirm the penalty notice, whether in its original form or with such modification as it sees fit.
 - (3) If the penalty notice is quashed, the enforcement authority must repay any amount paid as a financial penalty in pursuance of the notice.

Recovery of financial penalty

- 45.—**(1) The amount of an unpaid financial penalty is recoverable from L as a debt owed to the enforcement authority unless the notice has been withdrawn or quashed.
- (2) Proceedings for the recovery of the financial penalty may not be commenced—
 - (a) before the expiry of the period specified for requesting a review under regulation 38(2)(h)(ii),
 - (b) where a review has been requested under regulation 42(1), before the enforcement authority has served notice of its decision under regulation 42(2)(c), and
 - (c) where the enforcement authority has served a notice of its decision under regulation 42(2)(c) confirming the penalty notice, before the expiry of the period within which L may appeal to the First-tier Tribunal.
 - (3) In proceedings for the recovery of a financial penalty, a certificate which—

- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority, and
 - (b) states that payment of the financial penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.