



Energy Act 2011

2011 CHAPTER 16

PART 1

ENERGY EFFICIENCY

CHAPTER 2

PRIVATE RENTED SECTOR: ENGLAND AND WALES

Non-domestic energy efficiency regulations

49 Non-domestic energy efficiency regulations

- (1) The Secretary of State must make regulations for the purpose of securing that a landlord of a non-domestic PR property—
 - (a) which is of such description of non-domestic PR property as is provided for by the regulations,
 - (b) in relation to which there is an energy performance certificate, and
 - (c) which falls below such level of energy efficiency (as demonstrated by the energy performance certificate) as is provided for by the regulations,may not let the property until the landlord has complied with the obligation mentioned in subsection (2).
- (2) The obligation is to make to the property such relevant energy efficiency improvements as are provided for by the regulations.
- (3) Regulations under this section are referred to in this Chapter as “non-domestic energy efficiency regulations”.
- (4) For the purposes of non-domestic energy efficiency regulations—

“energy performance certificate” has the meaning given by the Energy Performance Regulations;

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“landlord” and “let the property” have the meaning given by the regulations (and “let the property” may be defined to include “continue to let the property”);

“relevant energy efficiency improvements” means improvements which—

- (a) are of such description as the regulations provide, and
- (b) can be—
 - (i) wholly paid for pursuant to a green deal plan as provided for by Chapter 1 of this Part, or
 - (ii) financed by such other description of financial arrangement as the regulations provide.

- (5) The Secretary of State may by order amend the definition of “energy performance certificate” in subsection (4).
- (6) The first non-domestic energy efficiency regulations must come into force no later than 1 April 2018.

50 Further provision about non-domestic energy efficiency regulations

- (1) Non-domestic energy efficiency regulations may in particular, include provision about—
 - (a) the period within which improvements required by the regulations must be started or completed;
 - (b) exemptions from any requirement imposed by or under the regulations;
 - (c) evidence relating to any requirement imposed by or under the regulations.
- (2) Provision falling within subsection (1)(b) includes, in particular, provision about exemptions—
 - (a) relating to any necessary permissions or consents;
 - (b) relating to the likely negative impact on the value of a property of complying with a requirement imposed by or under the regulations.
- (3) Provision falling within subsection (1)(c) includes, in particular, provision about evidence for the purpose of demonstrating—
 - (a) an exemption from a requirement imposed by or under the regulations;
 - (b) that a property is not one in relation to which the regulations have effect;
 - (c) that the improvements required by or under the regulations are not relevant energy efficiency improvements within the meaning given by the regulations.

51 Sanctions for the purposes of non-domestic energy efficiency regulations

- (1) Non-domestic energy efficiency regulations may include provision for the purpose of securing compliance with requirements imposed on landlords by or under the regulations.
- (2) Provision falling within subsection (1) includes, in particular, provision—
 - (a) for a local weights and measures authority to enforce any requirement imposed by or under the regulations;
 - (b) about the sanctions for non-compliance with a requirement imposed by or under the regulations;

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- (c) about the sanctions for the provision of false information in connection with such a requirement;
including, in cases falling within paragraph (b) or (c), the imposition of a civil penalty by a local weights and measures authority.
- (3) Where non-domestic energy efficiency regulations make provision for a civil penalty, the regulations must also include provision for a right of appeal to a court or tribunal against the imposition of the penalty.
- (4) Provision falling within subsection (3) includes, in particular, provision—
- (a) as to the jurisdiction of the court or tribunal to which an appeal may be made;
 - (b) as to the grounds on which an appeal may be made;
 - (c) as to the procedure for making an appeal (including any fee which may be payable);
 - (d) suspending the imposition of the penalty, pending determination of the appeal;
 - (e) as to the powers of the court or tribunal to which an appeal is made;
 - (f) as to how any sum payable in pursuance of a decision of the court or tribunal is to be recoverable.
- (5) The provision referred to in subsection (4)(e) includes provision conferring on the court or tribunal to which an appeal is made power—
- (a) to confirm the penalty;
 - (b) to withdraw the penalty;
 - (c) to vary the amount of the penalty;
 - (d) to award costs.
- (6) If the Secretary of State considers it appropriate for the purpose of, or in consequence of, any provision falling within subsection (4)(a), (c), (e) or (f), non-domestic energy efficiency regulations may revoke or amend any subordinate legislation in so far as the subordinate legislation extends to England and Wales.
- (7) In this section “subordinate legislation” has the meaning given in section 21(1) of the Interpretation Act 1978 and includes an instrument made under a Measure or Act of the National Assembly for Wales.