
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations introduce measures to improve the energy efficiency of certain private rented property in England and Wales.

Part 2 (*tenants' energy efficiency improvements*) comes into force on 1st April 2016, and enables the tenant of a domestic private rented property (that is, a property let on an assured tenancy for the purposes of the Housing Act 1988, a property let on a regulated tenancy for the purposes of the Rent Act 1977, or a property let on a tenancy prescribed by the Energy Efficiency (Domestic Private Rented Property) Order 2015) to make a request to their landlord for the landlord's consent to the tenant making prescribed energy efficiency improvements to the property. The landlord, and any superior landlord whose consent is required before they can be made, must not unreasonably refuse consent to the improvements specified in a tenant's request, unless exemptions set out in the Regulations apply, or the landlord proposes alternative energy efficiency measures. The tenant may apply to the First-tier Tribunal on the ground that the landlord or superior landlord has failed to comply with obligations in relation to the tenant's request.

Part 3 (*minimum level of energy efficiency*) comes into force on 1st October 2016, and applies to domestic private rented property, and to non-domestic private rented property (that is property which is let under a tenancy and is not a dwelling). It prescribes a minimum level of energy efficiency for private rented properties: that is, is an energy performance indicator (evidenced on the energy performance certificate for the property) of band E.

It provides that, subject to prescribed exceptions, a landlord of a domestic private rented property must not grant a new tenancy of the property after 1st April 2018, and must not continue to let the property after 1st April 2020, where the energy performance of the property is below the minimum level; and that the landlord of a non-domestic private rented property must not grant a new tenancy of the property after 1st April 2018, and must not continue to let the property after 1st April 2023, where the energy performance of the property is below the minimum level.

It makes provision for the enforcement of the requirements of Part 3 by local authorities in relation to domestic private rented properties, and local weights and measures authorities in relation to non-domestic private rented properties ("enforcement authorities"). Landlords seeking to rely on a prescribed exemption when letting a private rented property which falls below the minimum level of energy efficiency must register that exemption on a register maintained by the Secretary of State. Where an enforcement authority considers that a landlord may be in breach of a requirement of Part 3, it may serve a compliance notice requiring the landlord to provide evidence to the enforcement authority. Where an enforcement authority is satisfied that a landlord is in breach, it may issue a penalty notice imposing a financial penalty, and a publication penalty (which consists of publishing the details of the breach on the register). The landlord may request a review of the penalty notice by the enforcement authority and, where a penalty notice is confirmed on review, may appeal against the imposition of the penalty notice to the First-tier Tribunal.

Building Regulations Approved Document L2B: Conservation of fuel and power in existing buildings other than dwellings can be obtained from RIBA Bookshops Mail Order, at 15 Bonhill Street, London EC2P 2EA and at www.thenbs.com/buildingregs.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector, is annexed to the Explanatory Memorandum which is available alongside these Regulations on www.legislation.gov.uk/.