

## Minimum Energy Efficiency Standard Regulations 2015

### Purpose

Legislation has come into force enabling local authorities to pursue financial penalties of up to £5,000 for a number of specified offences under the Minimum Energy Efficiency Standard Regulations 2015. This paper seeks approval for the mechanism used to agree the fines issued by the Council.

### Drivers for the proposed enactment

If a property has been let or marketed for sale or let, in the past 10 years it is likely to legally be required to have an Energy performance Certificate (EPC).

The Minimum Energy Efficiency Standard Regulations 2015 set a minimum energy efficiency level for domestic privately rented properties let under an assured tenancy, regulated tenancy or domestic agricultural tenancy.

Since April 2020 landlords can no longer let or continue to let properties under those tenancies if they have an EPC rating of F or G. Landlords must either take appropriate steps to comply with the Regulations (and carry out energy efficiency improvements to bring the property up to EPC E or above) and/or register an exemption via the Government website.

There are a number of reasons why a landlord might register an exemption:

- An 'All relevant improvements made' exemption can apply where improvements have been made up to the cost cap (of £3,500), or there are none that can be made.
- The 'High cost' exemption can apply where no improvement can be made because the cost of installing even the cheapest recommended measure would exceed £3,500.
- A 'Wall insulation exemption' can apply where the only relevant improvements for the property are wall insulation measures and the landlord has obtained written expert advice showing that those measures would negatively impact the fabric or structure of the property.
- A 'Third party consent' exemption can apply where the relevant improvements require consent from a third party and that consent cannot be obtained.
- A 'Property devaluation' exemption can apply where making energy efficiency improvements to the property would devalue it by 5% or more.
- Landlords may apply for a temporary exemption if they have recently become a landlord under circumstances laid out in guidance.

If a local authority believes a landlord has failed to fulfil their obligations under the MEES Regulations, they can serve the landlord with a compliance notice. If a breach is confirmed (or an invalid exemption has been registered in respect of the property), the local authority can issue a financial penalty. The financial penalty can be served up to 18 months after the breach and/or the details of the breach published for at least 12 months.

The maximum penalty amounts apply per property and per breach of the Regulations. The maximum penalties are specified in the Regulations and are:

- up to £2,000 and/or a publication penalty for renting out a non-compliant property for less than 3 months

- up to £4,000 and/or a publication penalty for renting out a non-compliant property for 3 months or more
- up to £1,000 and/or a publication penalty for providing false or misleading information on the PRS Exemptions Register
- up to £2,000 and/or a publication penalty for failure to comply with a compliance notice
- A publication penalty means publication on the PRS Exemptions Register of information of details relating to the penalty notice such as:
  - The landlords' name
  - Details of the breach of the regulations of which the penalty notice has been issued
  - The address of the property in relation to which the breach has occurred, and
  - The amount of the financial penalty.

The maximum fine that can be issued per property is £5,000.

### **Description of Issue to be resolved**

The provisions of the Minimum Energy Efficiency Standard Regulations 2015 are in effect. Due to the size and limit of the fines available there is little room for discretion and therefore less need for guidance.

The Head of Service in consultation with the Cabinet Member for Housing approved that the level of fines issued for non-compliance with the Minimum Energy Efficiency Standard Regulations 2015 will be decided on a case by case basis by the Private Sector Housing Manager, in consultation with the Head of Legal, Governance and HR. This function & decision making process is recorded the Strategic Housing Sub – Delegation Scheme.