

Reviews

Upon receiving a penalty notice, a landlord may request a review of the local authority's decision to serve it. If a landlord requests a review, the local authority must consider any representations made by the landlord and all other circumstances of the case, decide on whether to confirm the penalty charge notice, and give notice of their decision to the landlord. If the local authority is not satisfied that the landlord committed the breach specified in the notice, or given the circumstances of the case it was not appropriate for a penalty charge notice to be served, they must withdraw the penalty notice. If the local authority is still satisfied that the landlord committed the breach, but the landlord still believes the penalty notice is incorrect, the landlord may proceed to the appeals process.

Appeals

Landlords may appeal any penalty notice on the basis that the penalty notice was issued in error (error of law or fact),

the penalty does not comply with the Regulations, or that it was inappropriate in the circumstances for the penalty notice to have been served. The appeal would be heard at the First-Tier Tribunal (General Regulatory Chamber).

Grants and Assistance

There are still some sources of funding which Ridgewater Energy can access for you, including Energy Company Obligation funding for some measures such as cavity wall, loft insulation and for upgrading on peak electric heaters to high heat retention off peak heaters (See the relevant factsheets)

The Government have made it harder for landlords to access this funding, as it no longer applies to 'F' and 'G' rated properties and will continue to restrict its use as the EPC requirement rises to a 'D' and then a 'C'.

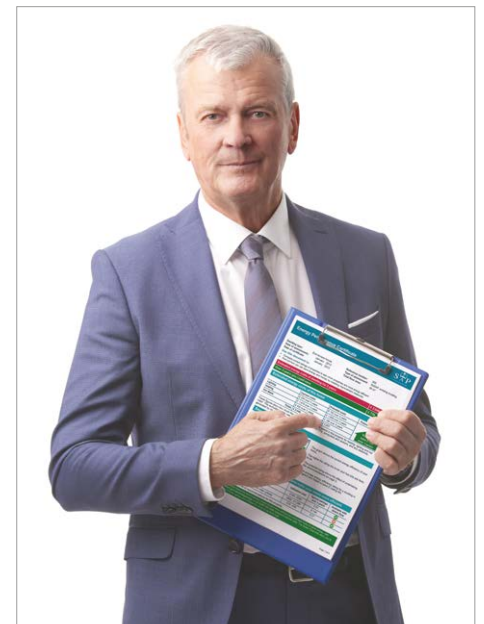
Ridgewater Energy can access local additional criteria called 'Flexible Eligibility' which can open up the grants to a wider cross section of tenants, so don't

just assume because they don't receive state benefits they don't qualify as they might.

Don't forget that we can also help advise you and may be able to provide a private quote for the required works, along with giving you access to other bespoke schemes like the 'Warmer Homes Fund' first time gas central heating program.

This factsheet has been compiled partly using information from the below page on the Residential Landlords Association website:

www.rla.org.uk/landlord/guides/minimum-energy-efficiency-standards.shtml



Contact

For more information on what help is available to upgrade the energy efficiency of your rental property, please contact us on:

Call: 01202 612726

Email: info@ridgewaterenergy.co.uk

www.ridgewaterenergy.co.uk



Minimum Energy Efficiency Standards MEES 2018 – 2025



From April 2020 all domestic privately rented property needed to be at a band 'E' Energy Performance Certificate (EPC) rating.



**Ridgewater
Energy**

It will be unlawful to rent a property which breaches the requirement for a minimum E rating, unless there is an applicable exemption. A civil penalty up to £4,000 will be imposed for breaches. There are separate regulations effective from 1st April 2016 under which a tenant can apply for consent to carry out energy efficiency improvements in privately rented properties.

Scope

The Regulations apply to domestic private rented sector properties in England and Wales.

This means –

- Properties let under an assured tenancy or a shorthold.
- A tenancy which is a regulated tenancy for the purposes of the Rent Acts.
- Properties let;
 - (a) On a tenancy which is an assured agricultural occupancy
 - (b) On a protected tenancy under the Rent Act 1976
 - (c) On a statutory tenancy under that Act.

Need for an EPC

- Properties within scope will include any domestic privately rented property which: has an EPC, and is either (i) required



to have an EPC; or (ii) is within a larger unit which itself is required to have an EPC, either at point of sale, or point of let. No changes are made to existing regulations regarding the provision of EPCs.

- Flats and houses are subject to the regulations. In the case of flats this means self-contained unit. Non-self-contained units such as bedsits do not require an individual EPC.
- If a property does not have an EPC then the regulations do not apply.

- If a bedsit is within a property that does have an EPC then the Regulations will need to be complied with before the bedsit can be rented out. Although as such bedsits do not need an EPC.

The EPC must be the current EPC if there is one and this must be no more than 10 years old.



Prohibition on letting

A domestic private rented sector property is substandard if the EPC rating is F or G, unless an exemption applies. The legislation prohibits a landlord from letting out a substandard property. If there is an EPC in place which shows that the property is an F or G then it must not be let; otherwise the landlord is liable to penalties. This is subject to any available exemptions. Energy efficiency improvements must be carried out to bring the property up to an E rating at the minimum, unless one of the exemptions is applicable.

If a landlord lets and continues to let the property in breach of the regulations, however, the breach does not affect the validity or legality of the tenancy itself, so the rent continues to be payable, but a section 20 eviction notice may not be valid as it isn't when no valid EPC is not available for the property.

Exemptions, restrictions on making improvements

Only appropriate, permissible and cost-effective improvements are required under the regulations. Landlords will be eligible for an exemption from reaching the minimum standard where they can provide evidence that one of the following applies:

- They have undertaken those improvements up to £3500 since September 2017 but remain below an 'E' EPC rating.
- The landlord is required by a contractual or legislative obligation to obtain a third party's consent/permission to make improvements relating to the minimum standard, and consent was denied, or provided with unreasonable conditions.
- The landlord requires consent, and the occupying tenant withholds that consent.
- Measures required to improve the property are evidenced by a suitably qualified independent surveyor, for example from the Royal Institution of Chartered Surveyors (RICS), as expected to cause a devaluation of the property of more than 5%. Only those measures that are expected to cause such devaluation would be exempt from installation.
- There will be no requirement to install wall insulation under the regulations where the landlord has obtained a written opinion, from a suitably qualified person or independent installer engaged to install the measure, advising that it is not an appropriate due to a potential negative impact on fabric or structure of the property (or building it is part of).

Implementation

From 1 April 2018, the regulations will apply on the granting of:

- A new tenancy to a new tenant
- A new tenancy to an existing tenant, i.e. any extension or renewal to an existing tenant. This includes a statutory periodic tenancy which comes into existence at the end of the fixed term shorthold.
- From 1 April 2020, the regulations will apply to all privately rented property in scope of the regulations.
- Where a lease is granted involuntarily by a landlord, for instance due to operation of law, they may be provided with six months to comply after the tenancy is agreed. Similarly, where a non-compliant property occupied by a tenant is sold, or is transferred to a lender in the event of landlord's default (e.g. if a receiver is appointed), the new landlord will have six months to improve the property, or seek to demonstrate an exemption applies.

Note: Ridgewater Energy are here to help you make sense of the requirements, the measures, the funding available and guide you through the application and installation process.

Enforcement

- Local authorities will enforce compliance with the regulations.
- Where a landlord considers an exemption applies allowing them to let their property below the minimum energy efficiency standard, the landlord will need to provide such evidence to a centralised register, the "PRS Exemptions Register". Landlords may be required to submit relevant evidence and details of their exemption to the Register. The Government may use this information to assist local authorities in targeting their enforcement activity.

Compliance Notices and Penalties

- Where a local authority suspects that a landlord with a property in scope of the regulations is not compliant, or has not sufficiently proved an exemption, the local authority can serve a compliance notice on the landlord requesting further information it considers necessary to confirm compliance. If it is not provided, or is provided and is not sufficient to provide compliance, the local authority may proceed to issuing a penalty notice.
- Penalties for a single offence may be cumulative, up to a maximum of £5,000. Further penalties may be awarded for non-compliance with the original penalty notice where a landlord continues to rent out a non-compliant property; however, penalties would be cumulative up to a maximum of £5,000. The landlord can be awarded a further penalty when one of the following events occurs:
 - The tenant changes
 - The regulatory backstop comes into effect



The penalty regime for non-compliance with the regulations will be as follows:

| Infringement | Penalty | |
|--|---|---|
| Providing false or misleading information to the PRS Exemptions Register | £1,000 Publication of non-compliance | |
| Failure to comply with a compliance notice from a local authority | £2,000 Publication of non-compliance | |
| Renting out a non-compliant property | Less than 3 months' non-compliance £2,000 fixed penalty Publication of non-compliance | 3 months or more of non-compliance £4,000 fixed penalty Publication of non-compliance |

NB: The penalty amounts are fixed and do not vary according to the severity of the contravention.