



Department for  
Business, Energy  
& Industrial Strategy

# Improving the Energy Performance of Privately Rented Homes in England and Wales

Closing date: 30 December 2020

September 2020



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# General information

## Consultation details

**Issued:** 30 September 2020

**Respond by:** 30 December 2020

Please do not send responses by post to the department during the coronavirus (COVID-19), as we will not be able to access them.

### Enquiries to:

Tel: 020 7215 5000

Email: [PRStrajjectoryConsultation@beis.gov.uk](mailto:PRStrajjectoryConsultation@beis.gov.uk)

**Consultation reference:** Improving the energy performance of privately rented homes

### Audiences:

Landlords, tenants, local authorities and the supply chain (energy efficiency installers, Domestic Energy Assessors etc.); anyone affected by or concerned by raised energy performance standards in the domestic private rented sector or representing the interests of the sector.

### Territorial extent:

England and Wales only.

## How to respond

We strongly encourage responses to be submitted online using the Citizen Space link below, where possible as this supports timely and efficient analysis of responses.

**Respond online at:** [beisgovuk.citizenspace.com/energy-efficiency/improving-energy-performance-privately-rented-home](https://beisgovuk.citizenspace.com/energy-efficiency/improving-energy-performance-privately-rented-home)

Or, in the event, you are unable to do so:

**Email to:** [PRStrajjectoryConsultation@beis.gov.uk](mailto:PRStrajjectoryConsultation@beis.gov.uk)

When responding, please state whether you are responding as an individual or representing the views of an organisation. Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

## Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable UK protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [beis.bru@beis.gov.uk](mailto:beis.bru@beis.gov.uk).

# Executive Summary

Our homes are a key part of our national heritage. They have shaped and defined us as a society. They reflect our culture and environment, and change over time with new tastes and technologies, and to meet new priorities. The UK housing stock is generally older than in the rest of Europe, and the potential for improvement in the energy performance of our homes is considerable. This is perhaps most significant in the private rented sector, which represents 20% of our housing stock, and has the highest concentration of fuel poor tenants (17.7%).<sup>1</sup> Improving the energy performance of these homes is a vital part of our wider strategy to decarbonise buildings cost-effectively, in light of the significant challenges posed by climate change.

This consultation seeks views on the government's proposal to amend the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* (from now on referred to as "the PRS Regulations"). The proposed amendments would significantly improve the energy performance of private rented sector homes in the 2020s, in order to:

- Deliver significant emission reductions, which will contribute to Carbon Budgets 4 and 5 and support a decarbonisation pathway consistent with our Net Zero 2050 target;
- Decrease bills for low income and vulnerable tenants, in support of the government's statutory fuel poverty target;
- Increase the quality, value and desirability of landlords' assets;
- Reduce energy bills for tenants and ensure warmer homes;
- Support investment in high quality jobs and skills in the domestic retrofit supply chain across England and Wales;
- Provide greater energy security through lower energy demand on the grid and reduced fuel imports.

The detailed proposals for amending the PRS Regulations are set out in Chapters 1, 2 and 3 of this consultation. Specifically:

**Chapter 1** outlines our preferred policy scenario for improving the energy performance of privately rented homes, comprising four elements:

- Raising the energy performance standard to Energy Performance Certificate (EPC) energy efficiency rating (EER) Band C;
- A phased trajectory for achieving the improvements for new tenancies from 2025 and all tenancies from 2028;
- Increasing the maximum investment amount, resulting in an average per-property spend of £4,700 under a £10,000 cap
- Introducing a 'fabric first' approach to energy performance improvements.

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<sup>1</sup> <https://www.gov.uk/government/collections/fuel-poverty-statistics>

**Chapter 2** considers the wider context for the proposals. It tests a more stretching alternative policy proposal, and seeks views on ensuring the quality of any energy performance improvement works undertaken, and on taking further action in the future for the 2030s:

- The alternative policy proposal would drive greater improvement in the energy performance of privately rented homes, delivering more emissions savings towards Carbon Budgets 4 and 5, and increasing bill savings for tenants. This would be achieved by a requirement on landlords to reach a dual metric target of both EER Band C cost metric and also the environmental impact rating (EIR) Band C carbon metric, with an increased cost cap of £15,000. However, this alternative currently offers a less cost-effective improvement pathway, given current carbon prices.
- We are seeking views on how we ensure energy performance improvements are carried out to a high standard: for example, by requiring landlords to choose a TrustMark-registered provider or installer for energy performance works.
- We are seeking views on how to support the uptake of smart meters in the private rented sector.
- We invite feedback on whether to consider tightening the PRS Regulations further in the future for the 2030s to help meet our net zero 2050 target and Carbon Budgets.

**Chapter 3** seeks views on how we support landlords through encouraging compliance with the PRS Regulations. We also suggest ways of strengthening enforcement options and amending the existing exemptions framework, including:

- Encouraging compliance with the PRS Regulations by placing a requirement on letting agents and online property platforms to only advertise and let properties compliant with the PRS Regulations; requiring landlords to provide an EPC prior to a property being advertised; raising the level of the fixed civil penalty fine for offences under the EPB Regulations<sup>2</sup>; and introducing a property compliance and exemptions database.
- Assisting Local Authority (LA) enforcement of the PRS Regulations through a number of proposals including: enabling LAs to inspect properties; increasing the maximum financial penalty a LA may impose on a non-compliant landlord per property and per breach of the PRS Regulations to £30,000; permitting LAs to use EPC Open Data for PRS enforcement; giving powers to tenants to request that energy performance improvements are carried out when a landlord is non-compliant; and introducing requirements for pre- and post-improvement EPCs.

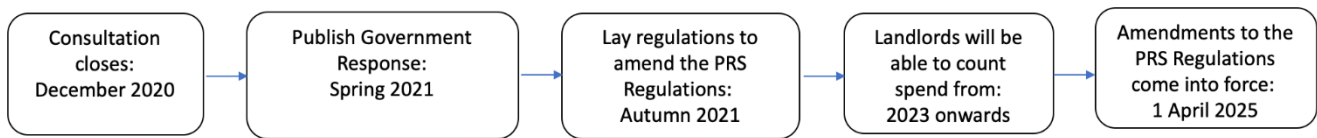
Government is planning to publish the Government Response to this consultation in spring 2021 and is planning to lay regulations in the autumn of 2021 which would amend the PRS Regulations. The timeline is set out in more detail below.

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<sup>2</sup> The Energy Performance of Buildings (England and Wales) Regulations 2012.



**Figure 1: Illustrative timeline to lay regulations to amend PRS Regulations<sup>3</sup>**



## Coronavirus (COVID-19)

The Coronavirus (COVID-19) pandemic has been challenging for the country, particularly for certain groups. Recognising the impacts of the pandemic on the private rented sector, the government introduced mortgage payment holidays for Buy to Let (BTL) mortgagors, whilst temporarily banning evictions to help stabilise the housing market and provide tenants with security of tenure during this national emergency.

As we look to the future, we have an opportunity to make sure our economic recovery is a green one. To this end, government announced that homeowners and landlords will be able to apply for vouchers from a £2 billion Green Homes Grant scheme to fund at least two thirds of the cost of hiring tradespeople to upgrade the energy performance of their homes up to a contribution of £5,000. In addition, low income and vulnerable homeowners, including park homeowners and those on certain benefits, will be eligible for a grant covering up to 100% of the cost, up to £10,000.<sup>4</sup>

However, there may also be long-term impacts from COVID-19 on the private rented sector that we are not yet aware of and want to better understand. We would therefore welcome your views on what the longer-term impacts of COVID-19 may be as they relate to this policy.

## Introduction

In June 2019 the UK government became the first major economy to legislate for net zero greenhouse gas emissions. The target requires the UK to bring all greenhouse gas emissions to net zero by 2050, compared to the previous target of at least an 80% reduction from 1990 levels. In addition to our net zero target, the UK has ambitious interim emission reduction targets, the Carbon Budgets, which require a 57% reduction in emissions across the UK economy by 2032.

To achieve these targets, ambitious action in all sectors of the economy is required, including tackling emissions generated by our homes. To date, greenhouse gas (GHG) emissions from homes have reduced by 16% compared to 1990 levels. However, homes are still responsible for 15% of UK greenhouse gas emissions (or around 22% including electricity consumption) at present.<sup>5</sup>

<sup>3</sup> This timetable relates to amendments to the PRS Regulations. Some of the compliance and enforcement proposals will require primary powers, which may involve longer timeframes to implement.

<sup>4</sup> <https://www.gov.uk/government/news/rishis-plan-for-jobs-will-help-britain-bounce-back>

<sup>5</sup> <https://www.gov.uk/government/statistics/final-uk-greenhouse-gas-emissions-national-statistics-1990-to-2018>  
Table 3. <https://www.gov.uk/government/statistics/final-uk-greenhouse-gas-emissions-national-statistics-1990-2017>

To meet our net zero target, we need to have largely eliminated emissions from our housing stock by 2050, and to have made significant progress towards that goal over the coming decade in order to meet our Carbon Budgets.

In 2017, the government set out in the Clean Growth Strategy (CGS) our aspiration for as many homes as possible to be upgraded to EPC Band C by 2035.<sup>6</sup> In the Private Rented Sector (PRS), the CGS committed to upgrade as many homes as possible to EPC Band C by 2030, where practical, cost-effective and affordable.

The policy proposals set out in this consultation also link closely with other commitments and work in train to meet them, and other policy areas being developed. These include:

- the publication in due course of a consultation on the merits of setting requirements for lenders to help households improve energy performance of homes they lend to;
- looking at incentives and levers that could encourage home owners to invest in energy efficiency improvements in line with our Clean Growth Strategy commitment to upgrade as many homes as possible to EPC C by 2035 where practical, cost effective and affordable;
- social housing – we are developing proposals for a transformational £3.8bn Social Housing Decarbonisation Fund which will improve the energy performance of social housing;
- fuel poverty – the proposed targets in the PRS can support existing fuel poverty goals; in addition, the funding options for the fuel poor can help improve standards in the PRS;
- the commitment to start to phase out high-carbon fossil fuel heating in off-gas-grid buildings in the 2020s;
- the Future Homes Standard, to be introduced by 2025, which will require new build homes to be future-proofed with low-carbon heating and world-leading levels of energy efficiency;
- the Heat and Buildings Strategy, to be published later this year, which will set out the immediate actions we will take for reducing emissions from buildings, including energy efficiency measures and low-carbon heating as part of an ambitious programme of work required to enable key strategic decisions on how we achieve the mass transition to low-carbon heat; and
- the government's intention to consult on proposed changes to the energy efficiency and ventilation requirements of the Building Regulations relating to existing homes.

## The domestic private rented sector (PRS)

The PRS has experienced significant growth in the last ten years, overtaking the social rented sector as the second largest housing sector in 2012-13. Since then, the sector has continued to grow. English Housing Survey data shows that, in 2018-19, 20% of all households in England were private renters. This equates to 4.8 million households.<sup>7</sup> In Wales, the PRS

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<sup>6</sup> HMG, [Clean Growth Strategy](#), 2017, p. 75.

<sup>7</sup> <https://www.gov.uk/government/statistics/english-housing-survey-2018-to-2019-headline-report>

makes up approximately 15 per cent of homes, equating to approximately 210,000 households.<sup>8</sup>

In 2018, there were an estimated 2.6m landlords in the domestic PRS in England and Wales. Landlords with a rental portfolio comprising a single property made up the largest ownership group (45%), whilst landlords with a rental portfolio comprising between two and four properties made up 38% of ownership. This represents a significant change from 2010, when the vast majority of landlords (78%) owned a single rental property, though part of this change may be due to methodological differences.<sup>9</sup>

**Table 1 – landlords by portfolio size**

Number of properties	1	2-4	5-9	10-24	25-100	>100
2010 - proportion of private landlords	78%	17%	3%	1%	1%	0%
2018 - proportion of private landlords	45%	38%	10%	5%	1%	0%

**Table 2 – landlord gross rental income**

Around a quarter of landlords earned a gross rental income of between £5,000 and £9,999 per annum.<sup>10</sup>

Gross rental income	£0 to £5,000	£5,000 to £10,000	£10,000 to £15,000	£15,000 to £20,000	£20,000 to £25,000	>£25,000
Proportion of landlords	5%	26%	17%	13%	9%	30%

## Energy performance of the domestic PRS

PRS properties are among the least energy efficient in the domestic housing stock, costing over £6bn in energy bills in 2018 and producing GHG emissions of around 11 megatonnes of carbon dioxide equivalent (MtCO<sub>2</sub>e) per annum.<sup>11</sup> The PRS accounts for a disproportionate number of fuel poor households (18% of PRS households are in fuel poverty under the Low Income High Cost (LIHC) measure, compared to 8% of owner-occupied households and 9% of social housing households).<sup>12</sup>

Around 3.2 million PRS properties in England and Wales have an EPC rating of D or below (see Table 3).

<sup>8</sup> <https://statswales.gov.wales/Catalogue/Housing/Dwelling-Stock-Estimates/dwellingstockestimates-by-localauthority-tenure>

<sup>9</sup> Estimated based on [English Private Landlord Survey 2018](#), and number of PRS households in Wales

<sup>10</sup> <https://www.gov.uk/government/publications/english-private-landlord-survey-2018-main-report>

<sup>11</sup> BEIS analysis, based on Energy Consumption in the UK (2019), English Household Survey (2019), National Energy Efficiency Database, and Treasury Green Book energy prices (2019).

<sup>12</sup> [Annual fuel poverty statistics report: 2020](#)

**Table 3: Private Rented Homes by Energy Efficiency Band (England Only, 2018)<sup>13</sup>**

Energy Efficiency Band <sup>14</sup>	Not Fuel Poor	Fuel Poor
A/B/C	1,495,000	57,000
D	1,790,000	431,000
E	338,000	230,000
F/G	124,000	89,000

## The benefits of improving energy performance in the PRS

Investing in energy performance measures, such as insulation and low-carbon heating, delivers a wide range of benefits. As well as reducing emissions from homes, energy performance is an investment in health and wellbeing, as it means living in warmer, more comfortable homes, which brings with it associated benefits such as better air quality and improved comfort. In the long-term, improvements in energy performance and heating translate into attainment benefits, such as increased productivity, longevity, and higher life satisfaction.

By contrast, uninsulated homes, where excess cold, dampness and mould growth are present, create both significant direct costs (NHS treatment costs, higher energy bills) and indirect costs (opportunity costs, such as underperformance at school, lost working days, lost business opportunities, lost property value, lack of wellbeing).<sup>15</sup>

In privately rented homes, landlords who make energy performance improvements benefit from increased rental income and reduced void periods, whilst seeing increases to the value, quality and desirability of their assets. Evidence from a hedonic pricing study found properties currently at EPC C rating were worth around 5% more than those currently at EPC D rating, after controlling for other factors such as property size and archetype.<sup>16</sup> This adds to a growing global body of evidence showing a link between a property's energy performance and its value.<sup>17</sup> In turn, tenants benefit from increased levels of comfort, better health and lower energy bills.

When considered in tandem with the government's ambition to raise the energy performance of homes across all tenures to at least EPC C, this policy will also deliver jobs and economic growth whilst upskilling the UK's labour force and benefitting consumers. It presents an enormous opportunity to further grow the UK's low-carbon and renewable energy economy, which is already worth over £44.5 billion (by turnover) and is selling exports worth around £5 billion annually.<sup>18</sup>

<sup>13</sup> [Fuel poverty detailed tables 2018 data](#), Table 18

<sup>14</sup> Based on the [Fuel Poverty Energy Efficiency Rating \(FPEER\)](#), which is the EER of a household adjusted for the Warm Home Discount.

<sup>15</sup> BRE, [The cost of poor housing in the European Union](#), p. 29.

<sup>16</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/910853/beis-cambridge-house-price-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/910853/beis-cambridge-house-price-report.pdf)

<sup>17</sup> <https://www.gov.uk/government/publications/an-investigation-of-the-effect-of-epc-ratings-on-house-prices>  
[https://ec.europa.eu/energy/sites/ener/files/documents/20130619-energy\\_performance\\_certificates\\_in\\_buildings.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/20130619-energy_performance_certificates_in_buildings.pdf)

<sup>18</sup> <https://www.ons.gov.uk/economy/environmentalaccounts/bulletins/finalesimates/2017>

## The existing PRS Regulations

The PRS Regulations set a minimum energy performance standard of EPC Band E for domestic private rented property. The requirement that a property must be EPC Band E has applied since 1 April 2018 to properties let on new tenancies (including renewals), and since 1 April 2020 has applied to all privately rented properties (even where there has been no change in tenancy).

Landlords of F and G rated homes are required to invest, or co-invest, in improving the energy performance of these properties to EPC Band E, if third-party funding is unavailable or insufficient. The landlord spend requirement is capped at £3,500 inclusive of VAT.

The PRS Regulations provide a limited number of temporary exemptions for properties with an EPC rating of F or G, to protect landlords where it is not technically advisable, or financially feasible, to bring those properties up to an EPC E rating. Exemptions are registered on a self-certification basis on the PRS Exemptions Register. The majority of exemptions available to landlords under the PRS Regulations are valid for a period of five years, effective from their date of registration.

A full list of the exemptions available under the current PRS Regulations can be found on GOV.UK.<sup>19</sup> The PRS Exemptions Register opened to domestic landlords from October 2017 and can be accessed [here](#).

## Off-gas-grid privately rented homes

Government will be consulting separately on a regulatory framework to phase out the installation of high-carbon fossil fuel heating in buildings not connected to the gas grid during the 2020s, as committed to in the CGS. These regulations are likely to require fossil fuel heating systems such as oil boilers to be replaced with heat pumps or another low-carbon heat option. The policy options for off-gas-grid buildings are currently being developed and will be designed to ensure alignment with measures proposed here. The final decision on proposals in this consultation will take into account the impact of regulations on off-gas-grid properties to ensure that requirements on landlords are coordinated.

## Climate change adaptation

Adapting properties to climate change is becoming an increasingly important consideration for landlords. This means, for example, undertaking flooding and overheating risk assessments, and identifying any opportunities for projects that reduce flood and overheating risk; improving air quality and health/wellbeing; and reducing greenhouse gas emissions.

Private landlords can identify measures for at-risk properties, including those with vulnerable residents. These might include behaviour change. We anticipate that in future, landlords will be able to benefit from reduced insurance premiums for properties with measures to reduce flood or overheating risk. Climate change adaptation and resilience should be considered alongside actions to reduce greenhouse gas emissions.

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<sup>19</sup> <https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance#registering-an-exemption>

## Funding energy performance improvements

Under the PRS Regulations, landlords are currently required to self-fund energy performance improvements up to the £3,500 cost cap when third-party funding is unavailable.

Currently, some third-party funding options are available to landlords (although their use is not universal). These include:

- supplier obligation funding (Energy Company Obligation funding for example – see below);
- Green Deal finance (see below); and
- other third-party funding (for example LA grants) - further details for tenants and landlords on third-party funding options can be found on the Simple Energy Advice website.<sup>20</sup>

### The Energy Company Obligation scheme

The Energy Company Obligation (ECO3) scheme places an obligation on the largest energy suppliers to improve the energy performance of homes. The current scheme is focussed on supporting fuel poor, low income and vulnerable households. It will run until March 2022 and is open to those who own their homes, whilst those living in Bands E, F and G social housing can also benefit from certain types of insulation and heating measures under the scheme.<sup>21</sup> As there is a regulatory requirement for PRS homes to reach Band E, Bands F and G properties are only eligible for high cost measures, including solid wall insulation, first-time central heating and renewable heating under the scheme. PRS homes Bands E and above are currently eligible for any ECO measures, except the replacement or repair of broken heating systems.

### Green Deal Finance

The Green Deal enables consumers to borrow money to fund energy performance improvements and pay back the loans over time through their electricity bills. The scheme was launched in 2013 but attracted far lower levels of consumer interest than expected and the government ended public funding in 2015. However, the framework supporting the scheme remained in operation to service existing Green Deal Plans (loans) and to allow for private investment in the scheme, and the scheme remains open to consumers, including landlords.<sup>22</sup>

### Green Homes Grant

As part of the green stimulus to help the UK's economic recovery, homeowners and landlords will be able to apply for vouchers from a £2 billion Green Homes Grant scheme to fund at least two thirds of the cost of hiring tradespeople to upgrade the energy performance of their homes up to a contribution of £5,000. Landlords are encouraged to make use of this scheme when it formally launches at the end of September.<sup>23</sup>

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<sup>20</sup> <https://www.simpleenergyadvice.org.uk/grants>

<sup>21</sup> <https://www.gov.uk/government/consultations/energy-company-obligation-eco3-2018-to-2022>

<sup>22</sup> <https://www.gov.uk/green-deal-energy-saving-measures>

<sup>23</sup> The scheme is only open in England. Funding will be provided to the devolved administrations through Barnett consequential.



## Fuel poverty

The *Fuel Poverty (England) Regulations 2014* set a target requiring that as many fuel poor homes as is reasonably practicable achieve a minimum energy efficiency rating of Band C by the end of 2030. The 2015 fuel poverty strategy also set out interim milestones of raising as many fuel poor homes as reasonably practicable to Band E by 2020, and as many fuel poor homes as is reasonably practicable to Band D by 2025.

The comparatively high proportion of energy inefficient homes in the PRS contributes to disproportionately high levels of PRS households living in fuel poverty at 18%, compared to 8% in the owner occupier sector.

In the summer of 2019 government consulted on updating the fuel poverty strategy for England and our response will be published in due course.<sup>24</sup> Government is considering the challenge of fuel poverty in the context of heat decarbonisation. We are also considering how future energy efficiency funding could interact with the proposed legislation.

## Vulnerable households

As a consequence of the legislative changes proposed here, it is thought some landlords may choose to leave the sector. In many cases, we expect the property could be bought by another landlord. However, in some cases it may result in the property moving to the owner occupier sector (resulting in a shift in the supply/demand balance of the private rented sector). We would welcome views on the extent to which this may happen and the impact this could have, particularly on more vulnerable households. We acknowledge that possible regulatory changes for the owner-occupier sector could bring further uncertainty.

Beyond considering the possible impacts described above, government has a statutory duty to understand and consider the potential effects of this policy on people with protected characteristics (age, disability, race, religion/belief, marriage or civil partnership status, sex, sexual orientation, pregnancy and maternity and gender reassignment).

We would welcome views and evidence on whether this policy could contribute to unintended or discriminatory outcomes for protected groups, and could contribute to greater inequality overall.

**Question 1: We would welcome views on possible impacts of the policy on the size of the PRS sector, the effect this could have on vulnerable households, and suggestions to mitigate this effect where it does occur, including any evidence.**

**Question 2: Do you foresee any impacts for protected groups? Please provide evidence to support your answer.**

## Coronavirus (COVID-19)

In response to the COVID-19 pandemic in the UK in early 2020, government introduced a package of emergency measures to protect renters and landlords affected by the virus. This

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<sup>24</sup> <https://www.gov.uk/government/consultations/fuel-poverty-strategy-for-england>

included the suspension of housing possessions action, and extending the mortgage payment holidays to Buy to Let mortgages. Landlords will also be eligible for vouchers from the Green Homes Grant scheme to fund at least two thirds of the cost of hiring tradespeople to upgrade the energy performance of their PRS properties up to a contribution of £5,000. The scheme is to formally launch at the end of September.<sup>25</sup>

We are interested in stakeholder views on any possible long-term impacts of COVID-19 that could impact on making the required energy efficiency improvements from April 2025.

**Question 3: We would welcome views on any possible long-term impacts of COVID-19 that could impact on making the required energy efficiency improvements from April 2025 and suggestions to mitigate this effect where it does occur, including any evidence.**

## This consultation

The PRS has some of the coldest homes, posing a risk to tenant health and leading to higher bills. Currently, homes with an EPC Band C cost around £300 less per year to heat than those at Band D, and around £740 less than Band E homes.<sup>26</sup> Around 67% of PRS homes are rated at less than EPC Band C.

Various market failures and barriers prevent energy performance improvements from being made, such as split incentives, where the costs of upgrading a property fall to landlords but the benefits of lower bills and/or a warmer home accrue to the tenant. Negative externalities are another barrier, such as GHG emissions not being fully reflected in the cost of fuels. A more ambitious regulatory approach in this sector is therefore necessary.

The proposals in this consultation – to tighten the standard to EPC Band C by 2025 and 2028 in the PRS – would also, if adopted, further support the interim fuel poverty milestone of EPC Band D by 2025, and would bring the sector as a whole to the statutory fuel poverty target of EPC Band C two years ahead of the required date.

## Policy development to date for setting higher energy performance standards

BEIS has consulted stakeholders extensively over the past year and a half to develop these proposals. For example, between October 2018 and January 2019, BEIS ran a critical friends expert working group involving representatives from landlord and tenant groups, LAs and policy experts from across Whitehall. We invited their feedback on developing the policy proposals set out in this consultation, such as the cost cap mechanism and trajectory set out in Chapter 1.

This engagement informed a further round of regional stakeholder engagement over the summer of 2019. BEIS ran a series of local stakeholder workshops in England and Wales to discuss policy options, attended by around 250 people in total. Feedback received, in particular around the need for plannability of investment and the need for the policy to be cost-effective, has informed this consultation design.

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<sup>25</sup> Private landlords would have to have complied with the current PRS Regulations before they can apply for Green Homes Grant funding.

<sup>26</sup> [English Housing Survey 2017 to 2018: energy, Table AT2.11](#) (modelled annual cost of energy).



The proposals set out in this consultation would deliver against a range of government objectives, as set out below:

- **Delivering our legally binding emissions reductions targets** – The preferred policy scenario will deliver ~6.1 MtCO<sub>2</sub>e of savings for Carbon Budget 5, whilst the additional proposals set out at Chapter 2 could deliver greater reductions, if adopted.
- **Reducing fuel poverty** – The preferred policy scenario improves approximately 900,000 low income households to energy efficiency Band C in England.
- **Lowering energy bills for consumers** – The preferred policy scenario should deliver energy bill savings of £220 a year on average by 2028, with a D-rated property saving £150 a year on average in energy bills by reaching Band C, compared to a Band E rated property saving of £350 on average by reaching Band C.<sup>27</sup>
- **Driving economic growth** – Setting higher energy performance standards in the PRS will help deliver around 6 million energy performance measures between 2025 and 2028, further developing an energy efficiency industry that is already worth over £20 billion and employs nearly 150,000 full time equivalent members of staff.<sup>28</sup>
- **Lowering energy demand on the grid** – Reducing domestic energy use, particularly at peak times, through improved energy performance results in lower demand for imported fuels and power generation and increased security of the UK's energy supply.
- **Transition to low-carbon heating** – More energy efficient houses are more suitable to low-carbon heating systems which typically require lower flow temperatures.

We invite your views on this consultation by 30 December 2020.

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<sup>27</sup> BEIS analysis. See Impact Assessment, published alongside this document, for further details.

<sup>28</sup> Full Time Equivalent.

# Catalogue of Questions

## Introduction

Question 1: We would welcome views on possible impacts of the policy on the size of the PRS sector, the effect this could have on vulnerable households, and suggestions to mitigate this effect where it does occur, including any evidence.

Question 2: Do you foresee any impacts for protected groups? Please provide evidence to support your answer.

Question 3: We would welcome views on any possible long-term impacts of COVID-19 that could impact on making the required energy efficiency improvements from April 2025 and suggestions to mitigate this effect where it does occur, including any evidence.

## Chapter 1

Question 4: Do you agree with the government's preferred new target of EER C as a minimum energy performance standard in the PRS?

Question 5: We would welcome your views on the pros and cons of these alternative metrics, in relation to our overall policy goals around reducing carbon emissions, fuel poverty, and energy bills; please provide evidence with your answer.

Question 6: Do you agree with the government's preferred policy scenario of requiring 'new tenancies' to reach EER C from 1 April 2025 and 'all tenancies' to reach EER C by 1 April 2028? If not, do you have alternative suggestions; please provide evidence with your answer.

Question 7: Do you agree with increasing the cost cap to £10,000 inclusive of VAT as our preferred policy proposal? If not, please explain why not and provide evidence with your answer.

Question 8: Should the £10,000 cost cap be adjusted for inflation?

Question 9: Should a requirement for landlords to install fabric insulation measures first be introduced? If yes, when, and how should such a requirement be implemented? If no, what are the alternative installation methods that maximise energy efficiency outcomes? Please provide evidence to support your answer.

## Chapter 2

Question 10: We would welcome views on the alternative of a dual metric target to reach both EER Band C cost metric and also EIR Band C carbon metric, with an increased cost cap of £15,000 inclusive of VAT.

Question 11: Should government introduce an affordability exemption? If so, we would welcome views on how such an exemption should be designed and evidenced, and any potential impacts on the PRS market.

Question 12: What should the eligibility criteria be for an affordability exemption if it is introduced, and how can the criteria accommodate fluctuations in a landlord's finances and/or in the value of a property? Please provide evidence to support your answer.

Question 13: Should we incorporate TrustMark into energy performance improvement works? If not, please explain why not and provide evidence with your answer.

Question 14: What role can the private rented sector play in supporting the rollout of smart meters and what are the barriers and possible solutions to achieving this?

Question 15: We would welcome views on whether the PRS Regulations may need to be tightened further for the 2030s? Please provide evidence with your answer.

### **Chapter 3**

#### *Compliance*

Question 16: What are the other steps government could take to increase awareness and understanding of the PRS Regulations?

Question 17: Is the introduction of a PRS property compliance and exemptions database necessary to help local authorities to proactively enforce minimum energy efficiency standards? If yes, should we include the per-property registration fee within the cost cap? If not, what alternatives to a PRS property compliance and exemption database would you suggest?

Question 18: Do you agree that government should set a maximum total registration fee for landlords with a very large portfolio? If yes, how many properties should qualify as a “very large” portfolio? What should the maximum fee be? If you do not agree to a maximum total registration fee proposal, do you have alternative suggestions?

Question 19: Should government seek primary powers to place a requirement on letting agents and online property platforms to only advertise and let properties compliant with the PRS Regulations? If not, please explain why not and provide evidence with your answer.

Question 20: Should government remove the seven to twenty-one day exemption period on landlords making all reasonable efforts to provide a valid EPC prior to a property being marketed or let? If not, please explain why not and provide evidence with your answer.

Question 21: Should government increase the level of the fixed civil penalty fine for offences under the EPB Regulations (currently set at £200)? If yes, how high should the fine be?

#### *Enforcement*

Question 22: Should government enable LAs to inspect properties for PRS compliance? If not, please explain why not and provide evidence with your answer.

Question 23: Should government permit local authorities to use EPC Open Data for some phases of PRS enforcement? Please provide evidence with your answer.

Question 24: Should there be a requirement for post-improvement EPCs (and for the cost to be included within the cost cap)?

Question 25: Should a valid EPC be in place at all times while a property is let?

Question 26: How can the most consistent set of recommendations in the EPC be assured? Does using only the most recent SAP methodology allow this?

Question 27: Should listed buildings and those in a conservation area be legally required to have an EPC?

Question 28: Should government seek primary powers to increase the maximum fine level to £30,000 per property for each breach of the PRS Regulations? If yes, should it be adjusted for inflation? If not, what would be an alternative, appropriate maximum fine level? Please provide evidence with your answer.

Question 29: Should government introduce powers for tenants to request that energy performance improvements are carried out where a property is in breach? If yes, how could a redress mechanism be devised?

Question 30: Should government introduce some form of local authority disclosure or benchmarking where a property is in breach of PRS Regulations?

### *Exemptions*

Question 31: Do you agree that the updated exemption regime should come into force on 1 April 2025? If yes, do you agree that the property compliance and exemptions database should be opened six months prior to commencement of exemptions? If not, please explain why.

Question 32: Should the 'new landlord' temporary exemption be simplified so that it applies to any person who has become a landlord within the last six months? Please provide evidence with your answer.

# Chapter 1: Core policy proposal

Our preferred policy scenario for improving the energy performance of privately rented homes comprises four elements which are explored in more detail in this section:

1. Raising the energy performance standard to EPC Band C;
2. A phased trajectory for achieving the improvements for new tenancies only from 2025 and for all tenancies from 2028;
3. Increasing the maximum investment amount, resulting in an average per-property spend of £4,700 under a £10,000 cap;
4. Introducing a 'fabric first' approach to energy performance improvements.

## Raising energy performance standards to EPC Band C for the domestic PRS

### Energy Performance Certificates (EPCs)

The EPC provides a way of assessing the energy performance of domestic properties. EPCs are a requirement when selling or letting a property and provide the purchaser or tenant with a relative understanding of the energy performance and running costs of the property.<sup>29</sup> EPCs underpin a number of government policies, including the PRS Regulations. In July 2018, government issued a Call for Evidence on how EPCs can be improved<sup>30</sup>; a summary of responses and EPC Action Plan are due to be published at the end of September.

The EPC bands reflect the Energy Efficiency Rating (EER) and are a measure of building performance based on the total annual cost of energy to heat and light a property. The banding system runs from A to G, with A representing the buildings with the lowest annual cost of heat and light (and therefore the best-performing). The band is displayed on the front page of the EPC (see Figure 2). This is the rating used to set the compliance target for the existing PRS Regulations.

The EPC also provides tenants and landlords with information on carbon emissions from the property they rent or own – the Environmental Impact Rating (EIR). The EIR also uses an A-G scale (where A is the best-performing and G worst). However, this rating is provided for information only (see Figure 3).<sup>31</sup>

### Figure 2: EER, front page of sample EPC in domestic PRS<sup>32</sup>

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<sup>29</sup> MHCLG, '[A guide to energy performance certificates for the marketing, sale and let of dwellings](#)'

<sup>30</sup> [Call for Evidence: Energy Performance Certificates for Buildings](#), July 2018

<sup>31</sup> Please note that the EPC certificate is currently being visually updated and may not display the Environmental Impact Rating in its current form. It may therefore vary from the visual representation described above. [Find your EPC](#)

<sup>32</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5996/211682\\_1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5996/211682_1.pdf)

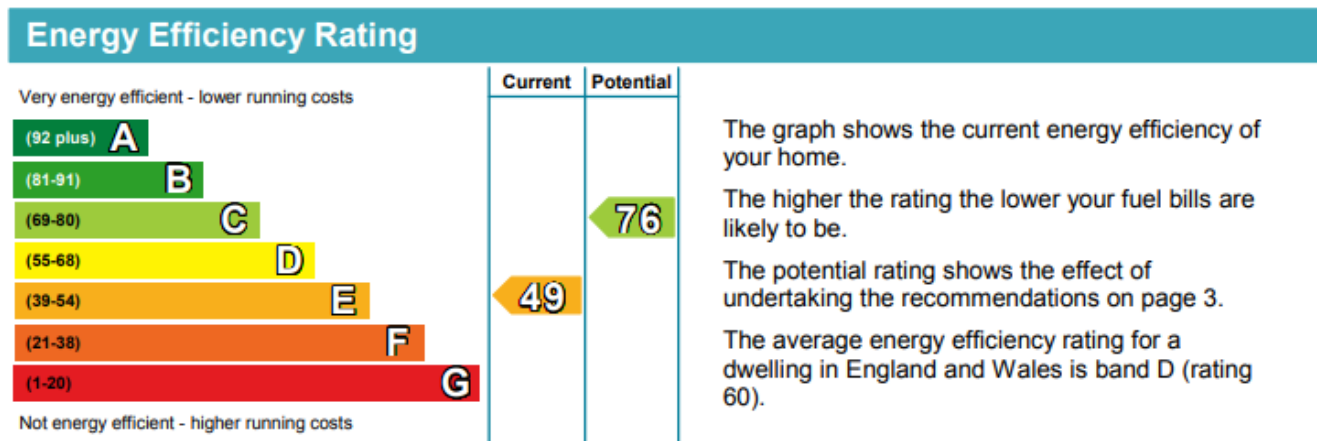
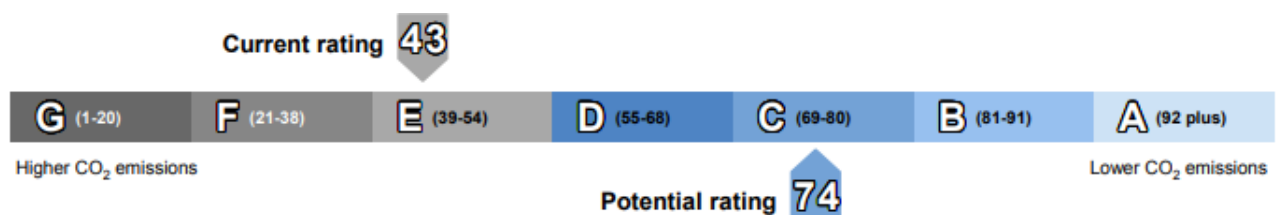


Figure 3: EIR, last page of the sample EPC in domestic PRS<sup>33</sup>



### Preferred policy scenario

We have considered various options to set an improved energy performance standard target in the domestic PRS, through introducing either a stand-alone EPC target (e.g. an EER or EIR rating); or a combination of targets (e.g. an EER rating in combination with an EIR rating – a “dual” target). **Our preferred policy scenario is a single target of EER Band C, achieved using the “fabric first” principle. This policy scenario:**

- **is the most cost-effective for landlords.** The EER is intended to drive the retrofit of energy performance measures in the most cost-effective way by listing the relevant energy performance measures (those recommended on the EPC), based on the predicted energy bill savings they make.<sup>34</sup> Cost-effectiveness for landlords is central to this policy design, in line with the government’s aspiration for as many homes as possible to be EPC Band C by 2035 where practical, cost-effective and affordable<sup>35</sup>, and with consideration to the wider responsibilities a landlord has for his or her property.<sup>36</sup>
- **delivers across carbon, energy bills and fuel poverty.** This option strikes the best balance between the different objectives of reducing carbon, energy bills and fuel poverty, saving 6.1 MtCO<sub>2</sub>e for Carbon Budget 5, improving around 900,000 low income households to energy efficiency Band C<sup>37</sup>, and saving tenants an average of £220 annually on their energy bills.

<sup>33</sup> Ibid.

<sup>34</sup> Both fabric first and cost-effectiveness principles underpin the EPC.

<sup>35</sup> [Clean Growth Strategy](#), p. 13

<sup>36</sup> <https://www.gov.uk/renting-out-a-property>

<sup>37</sup> England only

- **provides continuity with the PRS Regulations.** Landlords are familiar with the structure of the PRS Regulations and use of the EER rating and the system of recommendations provided by the EPC.

**Question 4: Do you agree with the government's preferred new target of EER C as a minimum energy performance standard in the PRS?**

## Other ratings considered

Government has considered alternative ratings, including a Final Energy Rating, a Heat Transfer Coefficient and a Primary Energy Rating.

- **Final Energy Rating (FER)** – This rating would only measure the energy demand of the building; it is independent of fuel prices, carbon savings, and the primary energy required to produce the energy the property uses.
- **Heat Transfer Coefficient (HTC)** – This rating measures the heat loss from a building. The efficiency of systems within the building (such as heating, lighting, renewables) would not be accounted for in this rating.
- **Primary Energy Rating (PER)** – This rating is based on the energy the property uses, but also includes the primary energy required to produce that energy. EPCs will be required to display the PER by the revised 2018 version of the *Energy Performance of Buildings Directive* (EPBD).

Government has decided against using the PER to underpin PRS standards at the present time. The PER does not map onto the government's emissions targets effectively because electricity has a higher primary energy factor than mains gas due to efficiency losses in thermal power generation, and will change over time as the generation mix on the grid evolves. The PER therefore currently favours gas over electricity.

All three ratings above would require fundamental changes to the EPC and therefore may take more time to implement than a dual rating using the Environmental Impact Rating (see Chapter 2). Moving away from the cost-based Energy Efficiency Rating may also have negative impacts on alleviating fuel poverty.

**Question 5: We would welcome your views on the pros and cons of these alternative metrics, in relation to our overall policy goals around reducing carbon emissions, fuel poverty, and energy bills; please provide evidence with your answer.**

## Phased introduction

**Preferred policy scenario: 'new tenancies' from 1 April 2025 and 'all tenancies' by 1 April 2028**

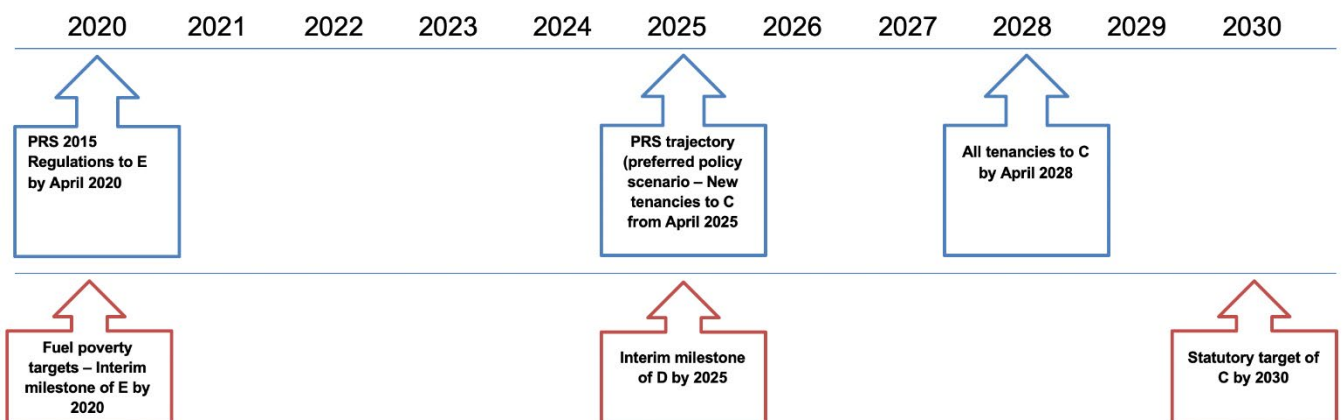
On balance, our preferred policy scenario is to introduce a single target but using a phased trajectory, falling on new tenancies from 1 April 2025 and all tenancies by 1 April 2028.

This is for the following reasons:



- **Limits disruption to landlords and tenants** – Landlords consider disruption to the tenancy cycle as a major risk to income certainty, which is also reflected in BEIS’ PRS Regulations Evaluation Interim Report.<sup>38</sup> Adopting a ‘new tenancies’ and ‘all tenancies’ approach means that, in most cases, work can be carried out during void periods between tenancies and avoids disruption to existing tenants where possible. Further, under ECO3 we have incentivised innovative measures, including those which reduce installation times and disruption to households.
- **Encourages a “whole house” approach to retrofit** – a single target encourages landlords to install multiple measures at the same time. This is more efficient than a more piecemeal approach using individual measures, which is more likely to happen if an interim target is introduced. Whole house retrofit is less disruptive on this basis, and if landlords choose to carry out works during void periods between tenancies, the disruption to tenants is kept to a minimum. A single target with a phased trajectory is also better for the supply-chain and innovation, whilst keeping disruption and inconvenience to a minimum.
- **Delivers carbon savings against Carbon Budgets 4 and 5** – We estimate that this policy could deliver 6.1 MtCO<sub>2</sub>e of emissions savings over Carbon Budget 5 (2028-32).
- **Supports the government’s statutory fuel poverty target** – Fuel poor PRS properties will start to be improved to EPC Band C at least five years before the government’s statutory fuel poverty target of energy efficiency Band C by 2030 (with full compliance achieved two years ahead of the target). The proposed trajectory would also deliver progress against the interim fuel poverty milestone of Band D in 2025.<sup>39</sup>

**Figure 4: PRS delivery against fuel poverty statutory target**



- **Builds on the current PRS Regulations** – Government wants to send a strong signal to the market that, where possible, continuity with the design of the PRS Regulations is preserved as energy performance standards are tightened. It is also the preferred government approach to introducing new requirements or new legislation.

<sup>38</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/913546/prs-meets-interim-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913546/prs-meets-interim-report.pdf)

<sup>39</sup> Whilst this approach is consistent in the long-term to deliver against fuel poverty targets, BEIS will need to consider whether support for EPC E, F, and G-rated fuel poor tenants is required between 2020 and 2025 to ensure compliance with the interim fuel poverty milestone of D by 2025.



### **Definition of ‘new tenancies’ and ‘all tenancies’, PRS Regulations<sup>40</sup> –**

**‘New tenancies’** – A ‘new tenancy’ is defined as a tenancy where a domestic property is rented out to a new tenant, or a contract with an existing tenant is renewed or extended.<sup>41</sup>

**‘All tenancies’** – ‘All tenancies’ are defined as those where the same tenant has been in situ throughout. The ‘all tenancies’ trigger date effectively introduces a backstop date, by which all remaining properties will have to be improved to the required EPC rating.

**Question 6: Do you agree with the government’s preferred policy scenario of requiring ‘new tenancies’ to reach EER C from 1 April 2025 and ‘all tenancies’ to reach EER C by 1 April 2028? If not, do you have alternative suggestions; please provide evidence with your answer?**

### **Alternative ways of setting a trajectory**

We have set out the government’s preferred scenario above. However, we have also considered a number of alternative options for how the PRS trajectory could be set, which are detailed below.

#### **a) A single compliance date (e.g. EPC C by 2028)**

We have considered whether to set a single compliance date, e.g. EPC C by 2028. Reflecting feedback from stakeholders, we believe a single compliance date poses an unjustifiably high delivery risk.

Clustering energy performance works potentially required for up to four million properties around one compliance date means disruption for tenants and a risk of supply chain bottlenecks, and it is also likely to drive up the price of works. There would also be considerable administrative responsibilities on LAs (or a third-party provider under the government’s proposal for a property compliance and exemptions database, set out in Chapter 3) who would have to carry out compliance checks without much of a buffer.

#### **b) Bringing the compliance-dates forward**

We have also considered bringing forward the compliance dates for the ‘new tenancies’ and ‘all tenancies’ to **1 April 2023** and **1 April 2025**, respectively. This would deliver greater emissions reductions sooner, contributing further to meeting the UK’s fourth and fifth Carbon Budgets and supporting our interim fuel poverty milestones. An earlier compliance date could also support the deployment of off-gas-grid low-carbon heat options more effectively by enabling a greater proportion of properties to be suitable for a wider range of low-carbon heating systems.

However, earlier compliance dates would also mean less time for landlords to plan and save and may also be an unreasonably short timeframe to develop the necessary capacity in the supply-chain.

<sup>40</sup> [The Domestic Private Rented Property Minimum Standard, Guidance for landlords and local authorities](#), p. 24.

<sup>41</sup> This definition under the PRS Regulations differs from the definition of a new tenancy under EPB Regulations where renewal or extension does not count as a new tenancy.

### c) Introducing interim steps

An alternative approach to setting a trajectory would be to set an **interim target, e.g. of EER D by 1 April 2025 ahead of the target of EER C by 1 April 2028**. However, this is not our preferred policy scenario for the following reasons:

- **It would require multiple cost caps, increasing the overall cost to landlords to achieve the same level of ambition** – BEIS modelling suggests a cost cap of around £9,000 would be required for both the interim target of EER D in 2025 as well as the target of EER C by 2028 to achieve the same outcomes as a single £10,000 cap under the preferred phased trajectory. This is also likely to increase overall costs to landlords.
- **Interim steps are more disruptive to the tenancy cycle** – Interim steps introduce two target dates to the market, potentially doubling disruption to landlords and tenants whilst enforcement authorities (or a third-party provider under the government’s proposal for a property compliance and exemptions database) would have to carry out compliance checks twice for two different standards.

## Capping investment costs

Under the current PRS Regulations, landlords of EPC F and G rated homes are required to invest, or co-invest, in improving the energy performance of these properties, if third-party funding is unavailable or insufficient. The landlord spend requirement is capped at £3,500 inclusive of VAT. The cap ensures improvements are made at reasonable cost. However, improving PRS properties to EPC Band C will require greater investment. Government believes that it is important to balance the needs of landlords and tenants, and that the level of investment should be fair and proportionate. We are therefore seeking views on maintaining the current model of self-funding under a cost cap, but increasing the level of the cap.

Under proposals set out in this consultation our modelling indicates that on average, landlords will spend £4,700 per property to reach EPC C, if a maximum cap of £10,000 on the total investment on current prices (and inclusive of VAT) is set. This cost cap is the optimal level at which a majority of PRS properties would be improved to EPC Band C (~70%) whilst trying to limit expense for landlords (reflecting the CGS commitment that improvements should be cost-effective and affordable).

### Box X: Is a £10,000 cost cap affordable?

The average per-property spend under this cost cap is £4,700. If we introduce the compliance dates of 2025 and 2028, landlords will have up to seven years to plan and save for the works. In addition the development of a green home finance market would help landlords borrow money against the value of their assets in order to fund the energy performance improvements; this is something we are testing through our Green Home Finance Innovation Fund<sup>42</sup> and our planned consultation on the role of mortgage lenders in helping households improve energy performance of homes they lend to. Landlords are further encouraged to apply for vouchers under the Green Homes Grant scheme to fund at least two thirds of the cost of hiring tradespeople to upgrade the energy performance of their PRS properties up to a contribution of £5,000 when the scheme officially launches at the end of September.

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<sup>42</sup> <https://www.gov.uk/government/publications/green-home-finance-innovation-fund-competition-successful-bids>

**Table 4: Monthly mortgage payments on £5,000 loan at 4% interest rate**

Monthly mortgage payments on £5,000 loan at 4% interest rate	10yr	25yr
Capital repayment mortgage	£51	£26
Interest only mortgage	£17	£17

**Landlord average property income, English Private Landlord Survey 2018, MHCLG**

According to MHCLG data, landlords reported a **gross (median) rental income of £15,000** per year before tax and other deductions. Three in five (61%) reported having a gross rental income of less than £20,000, while a further quarter (26%) reported between £20,000 and £49,999. Thirteen percent reported a gross rental income of £50,000 or more.<sup>43</sup>

We have modelled a number of cost cap scenarios. These are set out at Table 5 below. Under the lower cost caps only limited numbers of properties meet the standard and the deployment of low-carbon heating options is severely restricted.

**Table 5: Alternative cost caps modelled and estimated impacts, EER C only<sup>44</sup>**

Policy Option cost cap	Net Present Value (£bn)	% of PRS homes reaching target by 2028	Percentage point change in low income PRS households at FPEER Band C and above <sup>45</sup>	Estimated average capital cost to landlords (£/property)	Estimated average annual energy bill savings (£/property)	Non-traded carbon savings over Carbon Budget 5 (MtCO2e)
EER C only						
£5,000	-0.4	42%	+26.9%	£2,400	£110	3.0
£10,000	0.3	70%	+46.1%	£4,700	£220	6.1
£15,000	3.2	74%	+49.0%	£5,300	£260	7.1

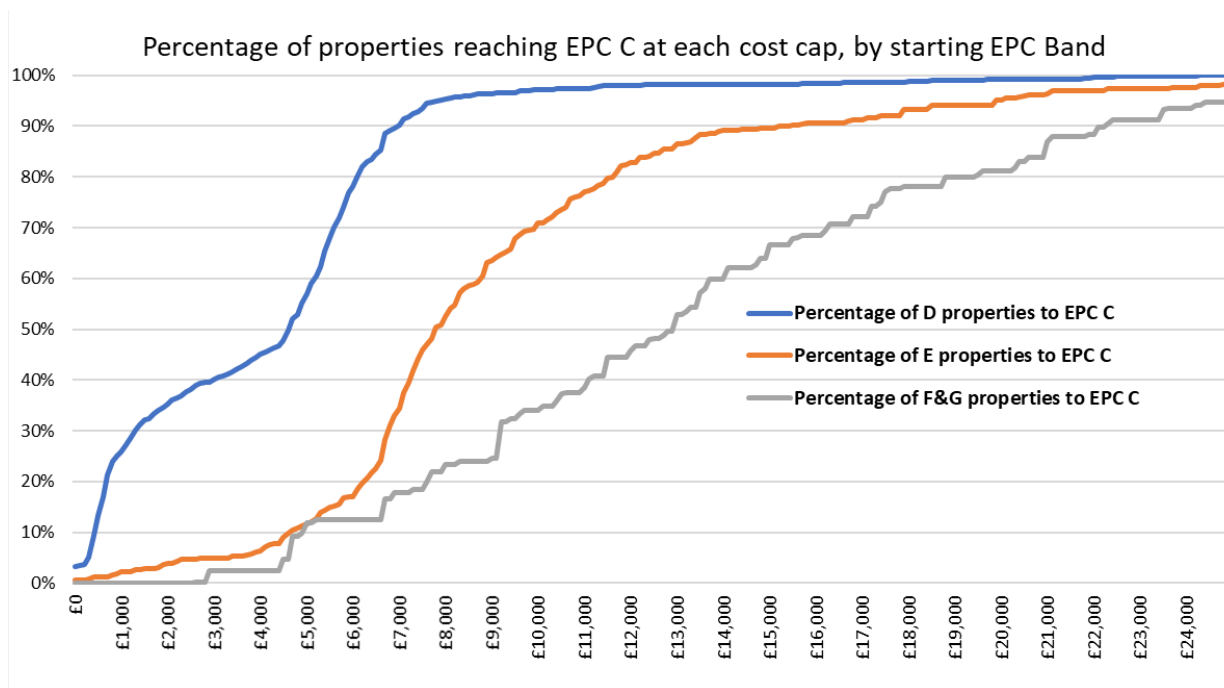
In addition, as shown in Chart 1 below, a higher cost cap will be necessary to make sufficient progress to address households in fuel poverty, in particular F- and G-rated homes.

<sup>43</sup> [English Private Landlord Survey 2018](#), p. 6.

<sup>44</sup> Please note that the figures presented in Table 5 are based on the cost cap rising with inflation. If the final policy design includes a fixed cost cap then the policy outcomes will be lower than quoted.

<sup>45</sup> Estimated for England in 2028, based on modelling of the policy. Based on the [Fuel Poverty Energy Efficiency Rating Methodology](#)

**Chart 1: Percentage of properties reaching EPC C (EER C) at each cost cap by starting Band, BEIS modelling**



### Adjusting the cost cap for inflation

Under the current PRS Regulations, the £3,500 cap is not adjusted for inflation, as doing so was considered too complex relative to its benefits. Additionally, it was anticipated that the PRS Regulations would be amended within a few years, meaning the period during which inflation could de-value the cost cap would be limited.

Because £10,000 is a much larger amount and the period during which the proposed amendments to the PRS Regulations will be in force is expected to be longer, we would welcome views on whether the £10,000 cost cap should be adjusted for inflation from today's prices. If not adjusted for inflation, our modelling estimates that a ~2% rate of inflation could mean that in eight years' time, £10,000 is worth 15-20% less than today.

**Question 7: Should the £10,000 cost cap be adjusted for inflation?**

### Alternative cost cap design options considered

Government has considered various alternative ways to determine the level of the cost cap. Alternatives could include varying the cost cap, based on factors such as rental income, geographic location and EPC rating starting points.

There are practical limitations to all of the above. For example, a cost cap based on rental yield would have to rely on recording average taxable profit per property rather than on aggregate taxable profit after deductions (landlord income from all properties collectively) to allow a landlord to identify which cost cap would apply. This would require an overhaul of how HMRC self-assessment tax return data is being collected or could be included as part of the property compliance and exemptions database proposal (see Chapter 3). This would however increase complexity of the system considerably and is not given further consideration in this consultation.

Rental income based on geographic location, such as is shown through local reference rent (LRR) levels<sup>46</sup> used in housing benefit calculations in England, gives a good indication of local area rents broken down by property size. However, this information does not detail a landlord's net profit after deductions, so it has limited value in determining cost cap affordability.

Finally, using a cost cap based on EPC ratings may create an additional administrative burden for enforcement authorities, who would have to administer different cost caps based on varying EPC ratings.

**Question 8: Do you agree with increasing the cost cap to £10,000 inclusive of VAT as our preferred policy proposal? If not, please explain why not and provide evidence with your answer.**

## The principle of installing fabric measures first

A general principle of improving the fabric efficiency of a building before heat and electricity generation – known loosely as “fabric first” – has existed for a number of years. Combined with a cost-effectiveness principle, a fabric first approach has been used to inform the way the recommendations on the EPC are generated. These are listed in the following order: 1) insulation, 2) heating and hot water, 3) windows and doors upgrades, and 4) electricity generation measures.<sup>47</sup> The EPC recommendations are derived from the Standard Assessment Procedure (SAP)<sup>48</sup> which, for existing buildings, includes a list of permissible measures (RdSAP Appendix T).<sup>49</sup>

In practice, landlords can currently install measures recommended on the EPC in any order of preference they want as long as they comply with the PRS Regulations.

To meet our net zero target, we need to have eliminated virtually all emissions from our housing stock by 2050. Energy performance measures play a crucial role in achieving the emissions savings required to meet our Carbon Budgets, meeting our statutory fuel poverty target and putting us on a cost effective path to net zero by 2050. During the 2020s we will need to install heat loss prevention measures which improve the thermal performance of our homes; this will reduce energy demand to support the energy system for a cost-effective transition to low-carbon heating.

On an individual building level, prioritising measures which improve the energy efficiency of the fabric means reducing the energy demand, lowering energy costs for the consumer, and reducing the carbon emissions of that building. This also makes homes more suitable for low-carbon heating systems which can run at lower flow temperatures. Increasing the thermal performance of a building supports efficient operation of low temperature heating systems such as heat pumps and heat networks. We consider an EPC C rating met through improvements to a home's fabric very likely to make these homes low-carbon heat ready.

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<sup>46</sup> GOV.UK, [Local reference rents, listed by BRMA and property size](#) (October 2019)

<sup>47</sup> Applying the cost-effectiveness principle means heat and hot water measures rank ahead of windows and doors in this case.

<sup>48</sup> Under the National Calculation Methodology (NCM), the building model used for domestic EPCs is the [Standard Assessment Procedure \(SAP\)](#), and for existing buildings where less data is available, reduced data SAP (RdSAP) is used.

<sup>49</sup> Government is currently working on developing the next iteration of SAP, [SAP 11](#), which will come into force in 2025.

Across the whole energy system, improving the thermal performance of buildings prior to installation/transitioning to low-carbon heating will reduce the energy demand as well as overall size and costs of the energy system. It will allow for smaller heating systems to be installed, reduce operating costs and help alleviate the risk of an increase in fuel poverty. It will further reduce primary energy demand and our dependencies on fuels through the net zero transition.

### **Applying a fabric first approach**

Government recognises that landlords want flexibility in the way they install the measures recommended on the EPC. However, in order to assure that insulation measures are installed prior to heating systems and electricity generation (solar PV installation)<sup>50</sup>, which would not lower energy demand or improve thermal comfort levels, a more targeted approach may be required moving forward.

As a principle, fabric first is informal and has no definition in legislation. Government is considering ways in which to encourage landlords to install fabric measures first and is interested in stakeholder views, including whether to place a requirement on landlords to follow this approach. This could potentially be introduced either in legislation (mandatory, where high-level measures could be written into the PRS Regulations and the detail provided in accompanying technical guidance) or entirely in guidance (non-mandatory, where government would encourage the guidance to be followed).

We invite stakeholder views on whether this approach should be taken and how it could be implemented.

**Question 9: Should a requirement for landlords to install fabric insulation measures first be introduced? If yes, when, and how should such a requirement be implemented? If no, what are the alternative installation methods that maximise energy efficiency outcomes? Please provide evidence to support your answer.**

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<sup>50</sup> We will also consider new technologies expected to be reflected in SAP by the time these proposals come into effect.



## Chapter 2: Going further

### Increasing our ambition

Achieving our net zero target means that we will need to fully decarbonise how we heat our homes by 2050. Our core policy proposals set out in Chapter 1 would bring more homes on a trajectory to being carbon-neutral by 2050, resulting in an estimated 2.1 million more privately rented homes achieving EPC C by 2028 and saving around 7.9 MtCO<sub>2</sub>e of non-traded GHG emissions over Carbon Budgets 4 and 5.

We consider that our lead policy proposal currently strikes the best balance between the different priorities of cost, emissions savings and fuel poverty goals whilst bringing the majority of PRS properties to the required standard. Currently, it is challenging to develop positive cost benefits for more ambitious and expensive energy performance improvements, including solid wall insulation and low-carbon heating systems such as heat pumps. However, we recognise that such improvements could become more feasible in the future. This means that more ambitious options, which would deliver increased GHG emissions savings through driving more energy performance improvements, could become more desirable in the future. These include solid wall insulation and deployment of low-carbon heating systems such as heat pumps.

As a result, we are seeking views on how we could drive greater emissions savings. We have developed an illustrative alternative policy proposal. This would require landlords to demonstrate properties had reached both EER (cost) Band C and also EIR (carbon emissions) Band C (a “dual metric”) and increase the maximum cost cap to £15,000.

As demonstrated in Table 6 below, although this option would deliver a significant increase in emissions savings, and more modest savings on energy bills for tenants, the average costs for landlords are greater, and there is a risk that a higher cost cap may be unaffordable to some landlords.

**Table 6: Policy proposals: EPC C (EER), £10k and EPC Band C (EER) and C (EIR), £15k<sup>51</sup>**

<i>Policy proposal</i>	EPC Band C (EER), £10k cost cap	EPC Band C (EER) and C (EIR), £15k cost cap
<i>Emissions Reductions over Carbon Budget 5 (MtCO<sub>2</sub>e)</i>	6.1	10.4
<i>Estimated number of low-carbon heating installations by 2030</i>	210,000	700,000
<i>Average bill savings for tenants (£)</i>	£220/property	£230/property
<i>Average cost/property</i>	£4,700	£6,200

<sup>51</sup> Figures presented in Table 6 are based on the cost cap rising with inflation. If the final policy design includes a fixed cost cap then the policy outcomes will be lower than quoted.

<i>Policy proposal</i>	EPC Band C (EER), £10k cost cap	EPC Band C (EER) and C (EIR), £15k cost cap
<i>Net Present Value (central carbon values)</i>	£0.3bn	-£1.7bn

**Question 10: We would welcome views on the alternative of a dual metric target to reach both EER Band C cost metric and also EIR Band C carbon metric, with an increased cost cap of £15,000 inclusive of VAT.**

### Introducing an affordability exemption for landlords

Government recognises that under a maximum £15,000 cost cap there may be an affordability risk for a small proportion of landlords required to spend in excess of £10,000. Preliminary internal government findings suggest landlords whose annual profit is £1,000 or less make up at least 15% of the market, whilst those whose annual turnover per property is £5,000 or less make up around 10% of the market.

An affordability exemption could mean qualifying landlords would not be required to spend more than £10,000 for a period of five years after the exemption is registered.

Government would welcome views on whether to introduce such an exemption, and if so, whether capping eligible landlords' expenditure at £10,000 per property is an appropriate limit. Government also welcomes views on what supporting evidence a landlord could reasonably be expected to provide. Government is additionally interested in thoughts on how best to evidence such an exemption (e.g. on profit, turnover or property value) and welcomes views on what supporting evidence a landlord could reasonably be expected to provide. Further, government is interested in stakeholder views on the risk of profits being intentionally reduced to qualify for this exemption, if profits were used as evidence.

**Question 11: Should government introduce an affordability exemption? If so, we would welcome views on how such an exemption should be designed and evidenced, and any potential impacts on the PRS market.**

Government also invites views on what the eligibility criteria should be and at what point the affordability for a landlord should be tested if an affordability exemption is introduced. Government is mindful that a landlord's finances and the value of a property may fluctuate, and it is interested in how the eligibility criteria could be designed to account for this. For example, one option could be to ask landlords to show evidence that their finances are below a specified threshold for at least a certain number of years within a given period.

**Question 12: What should the eligibility criteria be for an affordability exemption if it is introduced, and how can the criteria accommodate fluctuations in a landlord's finances and/or in the value of a property? Please provide evidence to support your answer.**



## Fabric first

We propose that, like the main policy scenario, the alternative scenario should be based on the principle of installing fabric measures first. Installing fabric measures first may, in some cases, effectively preclude low-carbon heat measures or more cost-effective electricity reduction due to the cost cap. Increasing the cost cap does to some extent mitigate this risk, although the guiding principle set out in the CGS is for energy performance improvements to be made where practical, cost-effective and affordable. We would welcome views on this. In a scenario where the alternative policy was implemented, we would need to clarify how a fabric first approach would work in practice.

## Ensuring the quality of energy performance improvements

Government recognises that the installation of energy performance measures requires considerable investment. Work to install energy performance measures must therefore be of the highest standard and carried out by reputable companies.

Government launched the newly reformed TrustMark<sup>52</sup> quality and consumer protection scheme in 2018. The scheme gives consumers confidence that a TrustMark Registered Business has been thoroughly vetted to meet required standards and has made a considerable commitment to good customer service, technical competence and trading standards.

To help drive this government-endorsed consumer protection scheme, we are inviting views on whether energy performance installers or providers should be TrustMark-registered when carrying out energy performance works for the domestic PRS.

Being a TrustMark-registered business may come at additional cost to those businesses which participate in the scheme. However, consumers – both landlords and tenants – will have the assurance that the installer has been thoroughly vetted; that the highest quality standards are being adhered to; that the risk of unintended consequences, such as build-up of condensation and mould growth, is kept to a minimum (through adherence to installer standards such as PAS 2030 and PAS 2035); and that redress is available if needed.

### Options for incorporating Trustmark

Options for incorporating TrustMark into energy performance improvement works include recommending that installers be TrustMark-accredited (for example in guidance); offering concessions if TrustMark-accredited installers are used (for example under the compliance framework); and including a requirement in legislation to use TrustMark-accredited installers.

**Question 13: Should we incorporate TrustMark into energy performance improvement works? If not, please explain why not and provide evidence with your answer.**

### Supporting the roll-out of smart meters

Smart meters are replacing traditional gas and electricity meters as part of a national infrastructure upgrade that is making our energy system more efficient and flexible, whilst cutting costs for consumers. The smart metering cost benefit analysis estimates that on

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<sup>52</sup> <https://www.trustmark.org.uk/aboutus/what-is-trustmark>

average, consumers will make annual energy savings of 3% for electricity and 2.2% for gas<sup>53</sup>, and evidence from large energy suppliers shows that consumers are saving energy as expected.

Smart meters bring significant benefits for both landlords and tenants. With accurate information on their In-Home Displays (IHDs), tenants can easily understand how they can make changes to the way they use energy in order to use less and save money on their bills. The ability to switch smart meters between credit and prepayment modes, without changing the physical meter, together with remote meter readings, also makes it easier for landlords and energy suppliers to manage tenancy changes and void periods.<sup>54</sup> If the tenant is responsible for the energy bills, they can choose to have smart meters installed, and consumer research undertaken by Smart Energy GB<sup>55</sup> has found that private tenants are more likely to want a smart meter than consumers on other tenures. However, English Housing Survey data shows that privately rented households are less likely to have smart meters installed.<sup>56</sup>

In June 2020, government confirmed the policy framework for energy suppliers to deliver a market-wide rollout of smart meters as soon as practical in the period after 2020.<sup>57</sup> This included considering policy measures to proactively support the uptake of smart meters in the domestic PRS, such as measures to help ensure that landlords do not unreasonably refuse a tenant's request to install a smart meter where the tenant is the energy customer<sup>58</sup>, and whether to add smart meters to the mix of measures that may be implemented to meet minimum energy efficiency requirements in the private rented sector. The government also indicated that, in the longer term, we will consider exploring regulatory options to ensure all eligible PRS properties have smart meters installed.

Any such proposals and their means of delivery would be subject to further consultation.

**Question 14: What role can the private rented sector play in supporting the rollout of smart meters and what are the barriers and possible solutions to achieving this?**

## Delivering Carbon Budget 6 and Net Zero

We estimate that the core proposals in this consultation would bring nearly 77% of privately rented homes to EPC Band C by 2030. This would be a significant step towards delivering our commitment in the Clean Growth Strategy for as many homes as possible to reach EPC Band C by 2035 where practical, cost effective and affordable.

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<sup>53</sup> 3.0% for electricity (credit and pre-payment); 2.2% for gas credit and 0.5% for gas prepayment. See: <https://www.gov.uk/government/publications/smart-meter-roll-out-cost-benefit-analysis-2019>

<sup>54</sup> <https://www.ofgem.gov.uk/consumers/household-gas-and-electricity-guide/consumer-guide-understanding-energy-meters-ofgem/smart-meters-guide-your-rights>

<sup>55</sup> Smart Energy GB, [Smart Energy Outlook March 2019](#).

<sup>56</sup> MHCLG, English Housing Survey, [English Housing Survey 2018: energy report](#). Note Scottish and Welsh households are not included in this survey but are in scope of the roll-out.

<sup>57</sup> <https://www.gov.uk/government/consultations/smart-meter-policy-framework-post-2020>

<sup>58</sup> To note that in a minority of the most challenging premises (estimated to be around 5%), which will include some that are let by private landlords, an "Alternative-HAN" solution is likely to be required; this could necessitate the installation of shared equipment within a multi-dwelling unit that is used to serve the first, and then subsequent, premises. In such cases, greater levels of access and intervention would likely be required to areas of the property beyond individual tenants' premises during the installation of smart metering equipment.

The UK government is expecting further advice in 2020 from its independent advisors, the Committee on Climate Change, on pathways to net zero in 2050. This will include advice on the level to set for the sixth Carbon Budget (which will set a cap on UK emissions over the period 2033-2037).

This is likely to require more emissions savings from the PRS than will be achieved if the current lead policy proposal is adopted (but not strengthened) in the future. To this end, the target in the PRS Regulations could be further tightened for the 2030s in due course: for example, by raising the cost cap on landlord investments to bring the remaining ~20% or so of private rented homes to EPC Band C, or by setting a higher minimum energy performance standard. We would welcome views on whether this may be an appropriate response.

**Question 15: We would welcome views on whether the PRS Regulations may need to be tightened further for the 2030s. Please provide evidence with your answer.**

## Chapter 3: Compliance and enforcement

The proposals set out in this chapter are intended to encourage compliance with the PRS Regulations and strengthen the enforcement regime. Government understands the vast majority of private landlords seek to comply with the PRS Regulations, and BEIS' PRS Regulations Evaluation Interim Report indicates that 87% of landlords would make energy efficiency improvements if they had a property in scope of the PRS Regulations. Therefore, our priority is to support landlords in demonstrating compliance, and we are suggesting a number of proposals to make compliance with the PRS Regulations more straightforward. As part of these measures, we also seek views on proposals for improving the existing exemptions framework.

We consider that a clearer, more straightforward compliance framework will reduce the need for enforcement. However, we also recognise that effective enforcement is an essential component of any regulatory framework. We are suggesting a number of amendments to the enforcement regime, intended to support LAs and provide additional encouragement to landlords to demonstrate compliance.

### Encouraging compliance

The interim findings of our evaluation of the existing PRS Regulations identify that there is scope to increase landlord awareness and understanding of the Regulations. To address this, and encourage greater compliance with the PRS Regulations, we are proposing to:

- Introduce a new property compliance and exemptions database
- Introduce new requirements regarding the provision of EPCs

In addition, we intend to update the guidance for landlords. We would welcome views on whether there are other actions government could take to increase awareness and understanding of the Regulations.

**Question 16: What are the other steps government could take to increase awareness and understanding of the PRS Regulations?**

### Introducing a property compliance and exemptions database

There is currently no simple way for LAs to identify whether PRS properties are compliant with the PRS Regulations. Some general data on PRS properties does exist, including in the EPC Register, the PRS Exemptions Register and across the Tenancy Deposit Schemes. However, evidence suggests that this data is insufficient or unsuitable for comprehensive compliance monitoring. Anecdotal feedback from the BEIS Enforcement Pilots suggests that LAs spend a disproportionate amount of time on efforts to identify non-compliant properties, both in the domestic and non-domestic PRS.

As a result, we are proposing to expand the scope of the current PRS Exemptions Register and redesign it as a property compliance and exemptions database operated by a third-party provider. The requirements for each property would be evidence that the property is exempt, or a copy of the latest EPC demonstrating compliance. Evidence would then be subject to

scrutiny and a decision by the database operator. The database operator could also provide guidance on compliance and exemptions.

There are multiple benefits associated with a property compliance and exemptions database. Specifically:

- **Gives landlords, tenants, agents and mortgage providers assurance that properties are compliant with the PRS Regulations.** Landlords have requested an approval system to demonstrate compliance. A centrally managed system also allows for simpler compliance checking for letting agents.
- **Improves compliance with the PRS Regulations by minimising confusion** – BEIS' PRS Regulations Evaluation Interim Report indicates that, whilst landlords are keen to demonstrate compliance, confusion among landlords around how the PRS Regulations work is an issue. BEIS continues to receive a significant amount of enquiries as to how the exemptions framework works and what landlords need to do to be compliant.
- **Significantly reduced administrative requirements on LAs** – A database requiring a one-time registration of properties to demonstrate compliance streamlines compliance checking processes.

We consider that a financial contribution towards operation is appropriate because the database allows landlords to demonstrate compliance with the PRS Regulations. We consider that a database registration fee of around £30 per property, inclusive of VAT, is reasonable and will cover the costs of its operation. We suggest that the fee be included in the cost cap for improvement spend. However, we are interested in views on whether there should be a maximum total registration fee for landlords with very large portfolios.

Wales has an existing landlord registration scheme (Rent Smart Wales). Whilst the property compliance and exemptions database proposed here is not a landlord registry, there is a risk of some duplication of functionality between the two systems. We will work with Rent Smart Wales to ensure the two systems are complementary, there is no duplication of fees, and that these two systems do not represent an unreasonable level of administration for landlords.

### Rent Smart Wales<sup>59</sup>

Any landlord who has a rental property in Wales which is rented on an assured, assured shorthold or regulated tenancy is required to register on Rent Smart Wales. A landlord's registration is valid for a period of five years after which time they must re-register. A landlord registration costs £33.50 if completed online and £80.50 if completed on paper.

The requirement to comply with the PRS Regulations is part of the **licence holder's Code of Practice**. Landlords who fail to comply with the PRS Regulations may have their **licence revoked** and face **fines of up to £5,000**.

**Question 17: Is the introduction of a PRS property compliance and exemptions database necessary to help local authorities to proactively enforce minimum energy efficiency standards? If yes, should we include the per-property registration**

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<sup>59</sup> <https://www.rentsmart.gov.wales/en/>

**fee within the cost cap? If not, what alternatives to a PRS property compliance and exemption database would you suggest?**

**Question 18: Do you agree that government should set a maximum total registration fee for landlords with a very large portfolio? If yes, how many properties should qualify as a “very large” portfolio? What should the maximum fee be? If you do not agree to a maximum total registration fee proposal, do you have alternative suggestions?**

## Energy Performance Certificates

To better encourage compliance with the PRS Regulations we propose to:

- Introduce a requirement that letting agents and online property platforms may only advertise and let properties compliant with the PRS Regulations;
- Require landlords to provide an EPC prior to a property being placed on the market;
- Raise the level of the civil penalty fine for non-compliance with the requirements to obtain, commission or make available an EPC;

## Placing a requirement on letting agents and online property platforms

Around 43% of landlords use a letting agent to either let or let and manage a property for them.<sup>60</sup> In addition, online property platforms (which are generally not considered to be letting agents) play an increasingly important role in the lettings process.

Legislation placing requirements on letting agents is already in place. This includes provisions contained in the *Energy Performance of Buildings (England and Wales) Regulations 2012* (hereafter ‘EPB Regulations’) and in the *Consumer Protection from Unfair Trading Regulations 2008*. Specifically:

- **EPB Regulations:** a letting agent must secure an EPC commissioned for the building and, where a property is rented, a letting agent must ensure that the EPC rating is stated on any rental advertisement in commercial media. An agent in breach of the EPB Regulations may be subject to a penalty charge of £200.<sup>61</sup>
- **Consumer Protection from Unfair Trading Regulations 2008:** letting agents who state inaccurate EPC ratings may be in breach of these Regulations.
- **The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to Scheme etc) (England) Order 2014:** dictates that all letting agents join one of two government approved redress schemes. If the letting agent fails to provide an EPC or offers a property without one, they may be in breach of the respective codes of practice and thus in breach of the *Consumer Protection from Unfair Trading Regulations 2008*.<sup>62</sup>

<sup>60</sup> MHCLG, [English Private Landlord Survey 2018: main report](#), p. 20. See also Which?, [Reform of the private rented sector: the consumer view](#), July 2018, p. 19, where 58% of landlords surveyed say they use letting agents to manage their property.

<sup>61</sup> MHCLG, ‘A guide to energy performance certificates for the marketing, sale and let of dwellings’, p. 5.

<sup>62</sup> The Property Ombudsman Scheme Code of Practice states that ‘you must not knowingly offer a property on the market without an appropriate Energy Performance Certificate’ (see paragraph 6A). The Property Redress Scheme Code of Practice specifies that the documentation to be provided must include an EPC (para 2.2.9).



The legal position on online platforms is different. Under the *Consumer Rights Act 2015*, online platforms do not meet the definition of a letting agent because they carry out the functions of advertising, disseminating information and bringing people together, none of which qualify as letting agency work. If a property is advertised on an online platform without an EPC, or with an inaccurate EPC, responsibility for compliance with the EPB Regulations falls either to the “relevant person” or “person acting on behalf of the relevant person” (regulation 11(2)) of the EPB Regulations).

The wording of the EPB Regulations suggests that any person whom the landlord formally appoints (probably with payment for doing so) to act on their behalf in the matter of advertising would be under the same legal duty as the landlord to ensure that the energy performance rating of the building, as expressed in the energy performance certificate, is stated in any advertisement of the sale or rental in commercial media. It would seem that this duty would apply to advertising on any commercial media, not just online platforms.<sup>63</sup>

Whilst the above legislative levers may cover letting agents to some extent, government considers that a specific requirement on letting agents and online property platforms<sup>64</sup> not to advertise or let properties that do not comply with the PRS Regulations would significantly strengthen and simplify the existing penalty regime, and encourage greater compliance overall. It would also help address confusion around which set of regulations applies depending on what type of online property platform is considered, or whether a letting agent may be in breach.<sup>65</sup>

This would require primary legislation, including seeking powers for an independent regulator of letting agents, which government committed to in 2017. Following that commitment and a subsequent call for evidence, MHCLG commissioned a Regulation of Property Agents (RoPA) working group to provide recommendations on the creation of an independent regulator of letting, managing, and estate agents. The working group featured representatives from professional property bodies as well as consumers and independent regulatory experts. Government is considering the 53 recommendations from the working group’s report<sup>66</sup> and will provide a response in due course.

**Question 19: Should government seek primary powers to place a requirement on letting agents and online property platforms to only advertise and let properties compliant with the PRS Regulations? If not, please explain why not and provide evidence with your answer.**

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<sup>63</sup> Commercial media is not defined in the EPC Regulations, but MHCLG guidance states that it includes newspapers, magazines, material produced by the letting agent and the internet.

<sup>64</sup> A letting agent, as defined in the Consumer Rights Act 2015, is someone who does letting agency work (work done in response to either (a) instructions from a prospective landlord seeking a tenant/granting a tenancy, or (b) instructions from a prospective tenant seeking to find/obtain a tenancy (s86)). Online property platforms do not meet this definition, which excludes advertising, disseminating information, putting people in contact with each other, providing a means for contacting each other (s86(2)).

<sup>65</sup> For example, letting agents may be bound by the EPB Regulations, but online property platforms may not be bound by these Regulations as they do not meet the definition of an agent (see above). However, online platforms may be considered in breach of the *Consumer Protection from Unfair Trading Regulations 2008* on grounds of misleading advertising if they advertise a property with a non-compliant EPC or without an EPC at all.

<sup>66</sup> <https://www.gov.uk/government/publications/regulation-of-property-agents-working-group-report>

## **Requiring that landlords provide a valid EPC to letting agents prior to a property being put on the market**

Under the current EPB Regulations, before a building is put on the market the landlord must commission an EPC if no valid one already exists. The landlord or letting agent must use all reasonable efforts to ensure the EPC is obtained within seven to twenty-one days.

Whilst the letting agent must be satisfied that an EPC has been commissioned for the property before it is put on the market, in practice the speed of the letting transaction process may mean that a PRS property is let by the letting agent before a valid EPC has been obtained by the landlord. Government therefore proposes to strengthen the EPB Regulations by removing the seven to twenty-one day exemption, meaning there would be no circumstances in which a property could be marketed or let without a valid EPC.<sup>67</sup>

**Question 20: Should government remove the seven to twenty-one day exemption period on landlords making all reasonable efforts to provide a valid EPC prior to a property being marketed or let? If not, please explain why not and provide evidence with your answer.**

## **Increasing the level of the civil penalty fine for non-compliance with the EPB Regulations**

Under the current EPB Regulations, a fixed penalty charge of £200 may be issued for failure to comply in the following circumstances<sup>68</sup>:

- the landlord fails to make a valid EPC available to the prospective tenant free of charge at the earliest opportunity
- the landlord does not commission an EPC before the property is put on the market or the letting agent does not ensure that an EPC was commissioned for the property
- the landlord does not secure an EPC using all reasonable efforts within seven days of the building being put on the market. An EPC must be obtained 21 days after the initial seven-day period
- the landlord or letting agent does not include the energy performance rating in any advertisement of the rental in commercial media

Government appreciates that most stakeholders want to comply with the EPB Regulations, but there may be a minority who may consider weighing up risks around compliance versus non-compliance. We are therefore interested in views around whether the fixed penalty charge of £200 should be raised, and by how much. One example would be to use multiples of monthly rent.

**Question 21: Should government increase the level of the fixed civil penalty fine for offences under the EPB Regulations (currently set at £200)? If yes, how high should the fine be?**

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<sup>67</sup> Government proposes to do this by amending regulation 7 EPB Regulations, to require landlords to provide an EPC before a property is advertised or let by a lettings agent, i.e. removing the seven- and twenty-one-day periods that currently apply before an EPC is required for placing a property on the market for rent.

<sup>68</sup> MHCLG, 'A guide to energy performance certificates for the marketing, sale and let of dwellings', p. 18.



## Strengthening enforcement

Government believes that enforcement best sits with LAs who know the market and are best placed to identify and work with landlords where intervention is needed.<sup>69</sup> At the same time, government recognises that LAs face a number of challenges in PRS enforcement, including reduced funding for enforcement, low civil penalties and the need for better alignment between different internal departments.<sup>70</sup>

Every LA is the enforcement authority responsible for enforcing compliance with the PRS Regulations within their geographic boundaries.

The proposals set out in this section relate to:

- LA powers;
- EPCs;
- the maximum fine level; and
- tenant powers.

### Local Authority powers

#### Powers to inspect properties

Feedback from our landlord workshops suggests that LAs would like to see increased enforcement powers including the power to enter properties suspected to be in breach of the PRS Regulations and the power to serve improvement notices, in addition to penalty notices.

Under existing housing law, LAs have some powers of entry to PRS properties, including to inspect for health and safety hazards under the Housing Act 2004. However, these are specific to other private rented sector legislation.

#### Powers of entry

LAs have powers of entry to PRS properties in limited circumstances under the existing housing law – such as to determine if enforcement action under the Housing Act 2004 is necessary. In these cases, local authorities use the Housing Health and Safety Rating System (HHSRS) to ascertain whether hazards, for example damp and mould growth or excess cold, are present at a serious ‘category 1’ level. LA feedback from the BEIS Enforcement Pilots further suggests that some LAs do check compliance with the PRS Regulations where an HHSRS inspection is taking place.

**Please note:** Government plans to carry out a review of HHSRS in due course and, as part of this review, will consider the interconnections and alignments between the PRS Regulations and the HHSRS.

We consider that use of these powers for enforcing the PRS Regulations is disproportionate to their intended purpose. Instead we propose to enable LAs to give notice to landlords that they

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<sup>69</sup> MHCLG, [Rogue Landlord Enforcement, Guidance for local authorities](#), April 2019.

<sup>70</sup> The [‘Private Rented Sector’ Housing, Communities and Local Government Committee Report](#) of April 2018,

wish to inspect<sup>71</sup>, requesting permission from landlords and any tenants in situ at the time to carry out an inspection at an agreed time.

**Question 22: Should government enable LAs to inspect properties for PRS compliance? If not, please explain why not and provide evidence with your answer.**

### **Permitting LAs to use EPC Open Data for PRS enforcement**

Government makes EPC data available for research purposes to the scientific community, LAs and environmental organisations. Updated EPC bulk data is published on a quarterly basis and holders of EPCs may opt-out from this service if they do not wish their data to be disclosed.

BEIS has received feedback from the Enforcement Pilots (see below) that LAs would find EPC Open Data useful for PRS enforcement. We are therefore considering whether to widen the scope of use of EPC Open Data, to permit LAs to use this data for some phases of PRS enforcement and are interested in stakeholder views on this proposal.<sup>72</sup>

#### **BEIS Enforcement Pilots**

In November 2018, the Department launched the first year of a pilot study with seven Local Authorities aimed at exploring local authority monitoring, compliance and enforcement approaches with regard to the PRS Regulations. The study was focused on developing processes to identify non-compliant properties and their landlords, creating communication and engagement strategies to raise awareness of and compliance with the PRS Regulations amongst landlords, tenants and other market players, as well as putting enforcement processes in place.

Following the conclusion of the first year of the enforcement pilot study in March 2020, the Department is currently conducting a second round of pilots with a new set of twelve Local Authorities to test out, develop and refine the findings of the first year of the study. The second phase of the study commenced in July 2020 and is due to conclude in 2021. The Department plans to share the findings of the pilot study with all Local Authorities in England and Wales in the form of an advisory best-practice toolkit on monitoring, compliance and enforcement of the minimum standard.

**Question 23: Should government permit local authorities to use EPC Open Data for some phases of PRS enforcement? Please provide evidence with your answer.**

### **Delegation of powers in two-tier LAs**

In the EPC Call for Evidence, stakeholders indicated that a barrier to effective enforcement of the PRS Regulations is the misalignment between the enforcement authorities for PRS and EPCs in two-tier LAs. In these LAs, the housing or environmental protection teams in the lower

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<sup>71</sup> Government considers powers under the *Energy Act of 2011* (section 45) wide enough to introduce this enabling power through an amendment of the PRS Regulations 2015 and is interested in stakeholder views on whether such a provision should be sought.

<sup>72</sup> <https://epc.opendatacommunities.org/>

tier authority are responsible for domestic PRS enforcement, but trading standards in the upper tier authority are responsible for enforcing the requirement to have an EPC.<sup>73</sup>

Government believes that local authorities have the powers needed to delegate responsibilities to other local authorities, either upper or lower tier under section 101 of the Local Government Act 1972. We are proposing to make government guidance to local authorities clearer and would welcome feedback from LAs.

### Energy Performance Certificates

#### Requiring post-improvement EPCs

Feedback from the BEIS PRS Enforcement Pilots<sup>74</sup> and PRS stakeholder workshops shows that LAs can significantly reduce the time spent on compliance checking and better direct enforcement activity where a valid, up-to-date EPC for a property exists.

Government recognises that in most cases landlords will commission a post-improvement EPC to demonstrate compliance with the PRS Regulations – for example, to let a property on a new tenancy or to register for an exemption or demonstrate compliance (if the proposed property compliance and exemptions database is introduced). However, we propose to make this clearer in the PRS Regulations by requiring a post-improvement EPC to be undertaken to demonstrate overall compliance.<sup>75</sup> The cost for commissioning a post-improvement EPC would be included in the cost cap.

**Question 24: Should there be a requirement for post-improvement EPCs (and for the cost to be included within the cost cap)?**

#### Requiring a new EPC when the old EPC expires

In government's recent EPC Call for Evidence, stakeholders have raised a concern that the use of a 'new tenancy' is different between EPB Regulations and PRS Regulations. Currently, once an EPC expires after ten years, a new, valid EPC is only required when the property is re-let, not when a tenancy is renewed or extended with the same tenant in situ throughout. As a valid EPC is a legal requirement to bring PRS properties into scope of the PRS Regulations, these types of properties (where the EPC expired and the tenancy is renewed or a tenant is in situ throughout) are not covered by the PRS Regulations and therefore may not meet the necessary energy performance improvements.

Further, updates to the SAP methodology over recent years mean that the list of recommended energy performance improvement measures on an older EPC may differ from a newer EPC. The calculations underpinning the EPC rating have also been frequently updated since 2008. The SAP methodology was last updated in 2014. We wish to ensure consistency in the methodology underpinning the EPC recommendations and rating, so that the most appropriate measures for reaching the new energy performance target are installed in every

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<sup>73</sup> Local Weights and Measures Authorities are LAs that are responsible for enforcing national weights and measures legislation through their Trading Standards bodies. They are either unitary authorities (metropolitan boroughs, London boroughs and some shire councils) or the upper tier of two-tier LAs (i.e. County rather than District Councils).

<sup>74</sup> BEIS, [Leading on Growth](#), p. 106.

<sup>75</sup> Powers in the *Energy Act 2011*, Section 44(1)(c), allow government to make provisions about 'evidence relating to any requirement imposed by or under the Regulations.

property. We invite views on how to assure the most consistent set of recommendations in the EPC recommendations.

**Question 25: Should a valid EPC be in place at all times while a property is let?**

**Question 26: How can the most consistent set of recommendations in the EPC be assured? Does using only the most recent SAP methodology allow this?**

### **Requiring an EPC for listed buildings and those in a conservation area**

Privately-rented listed buildings and those in conservation areas may apply for an exemption from the legal requirement for a EPC; in these cases they would be out of scope of the current PRS Regulations. Such buildings are not required to make any energy performance improvements and any improvements would be made voluntarily at the discretion of the landlord.

Government recognises that owners of these homes may be unsure whether their properties are required to comply with current PRS Regulations. Requiring listed buildings and those in a conservation area which are to be rented out to have an EPC would create clarity on the position. Government is therefore seeking views on whether listed buildings and those in a conservation should be legally required to have an EPC.

**Question 27: Should listed buildings and those in a conservation area be legally required to have an EPC?**

### **Increase the maximum fine level to £30,000**

The current PRS Regulations allow for a maximum total of £5,000 of financial penalties to be imposed by an LA on a landlord of a domestic PRS property in relation to the same breach and for the same property.

Government appreciates that most landlords will want to comply with the PRS Regulations through doing the improvement works, but that there may be a minority who may consider weighing up risks around compliance versus non-compliance. The existing maximum fine level of £5,000 is unlikely to act as an effective deterrent to non-compliance when compared to the proposal in Chapter 1 of this consultation to increase the cost cap to at least £10,000 inclusive of VAT.

We are therefore seeking views on raising the maximum fine to £30,000 per property and per breach of the PRS Regulations. This proposed fine level is in line with feedback from the expert stakeholder working group conducted by BEIS between October 2018 and January 2019.

We suggest that LAs retain flexibility as to how they wish to set the fine levels within this proposed upper cap. Government further suggests that any monies raised through civil penalties should continue to be retained by LAs to support enforcement action (although as at present, Government will continue to encourage LAs to work with landlords of non-compliant properties to get those properties improved, resorting to the use of a financial penalty only after other engagement has failed).

Raising the upper fine level in the domestic PRS to £30,000 would require primary powers, which may involve longer timeframes to implement.

**Question 28: Should government seek primary powers to increase the maximum fine level to £30,000 per property for each breach of the PRS Regulations? If yes, should it be adjusted for inflation? If not, what would be an alternative, appropriate maximum fine level? Please provide evidence with your answer.**

## Tenant Powers

The current PRS Regulations provide limited powers to tenants, for example, the right to request the landlord's consent to undertake energy performance improvements themselves, and at their cost, and the right to withhold consent to energy performance improvements being carried out whilst they are renting.<sup>76</sup>

Anecdotal feedback from the BEIS Enforcement Pilots indicates that the first route to LAs becoming aware of a potential breach of the PRS Regulations is often when a tenant makes a complaint about a non-compliant landlord ('reactive enforcement'). We therefore propose to give tenants powers to request that non-compliant landlords carry out energy performance improvements.

In addition, we propose that tenants should be able to request redress from the landlord, recognising that the tenant may be paying higher energy bills as a result of the property not meeting the required standard.

Government is interested in views around how a compensation mechanism should be devised and if there are any concerns with this approach, particularly around repercussions for tenants making requests for improvements to non-compliant landlords.

We are also interested in views on whether some form of disclosure or benchmarking should be introduced around how effectively LAs address tenant complaints where a property is in breach of the PRS Regulations.

Introducing the above tenant powers will require primary legislation, which may take longer to implement than other proposals outlined in this consultation.

**Question 29: Should government introduce powers for tenants to request that energy performance improvements are carried out where a property is in breach? If yes, how could a redress mechanism be devised?**

**Question 30: Should government introduce some form of local authority disclosure or benchmarking where a property is in breach of PRS Regulations?**

## Houses in multiple occupation (HMOs)

A home is an HMO if at least three tenants live in the property, forming more than one household and they share toilet, bathroom or kitchen facilities with other tenants.<sup>77</sup> Not every

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<sup>76</sup> The landlord can then file a third-party consent withheld exemption for the duration the same tenant is in situ but has to carry out the required improvement works (or file an exemption where applicable) before the property is rented out anew. This assures that there is a mechanism in place to protect tenants – in particular vulnerable ones – from being negatively impacted by any disruption from energy efficiency works being carried out whilst they live in the property.

<sup>77</sup> A home is a large HMO if both of the following apply: at least 5 tenants live there, forming more than 1 household; they share toilet, bathroom or kitchen facilities with other tenants. See GOV.UK, ['Private Renting'](#)

HMO needs an EPC. Government is planning to update EPB Guidance to clarify when an EPC is required.<sup>78</sup>

## Updating the exemptions framework

The PRS Regulations set out a number of exemptions to ensure that the costs and circumstances relating to energy performance improvements are proportionate and fair to landlords.

Government has reviewed the exemptions framework and is seeking views on changes to make it simpler for landlords to use exemptions, whilst mitigating risks and unforeseen circumstances, such as energy performance measures damaging the fabric or appearance of a building. We intend that existing exemptions not mentioned in this section will remain as they are. Overall, we expect up to 10% of PRS properties to be eligible for an exemption.

**Table 7: PRS properties in scope (under preferred policy scenario); estimated number of exemptions filed, BEIS modelling data**

<i>PRS properties in scope</i>	3,000,000
<i>Estimated number of exemptions filed</i>	300,000

We propose that the amended exemptions framework, for compliance with the tightened standard, would apply from 1st April 2025, to align with the phased trajectory set out in Chapter 1. Under this proposal, we would open the property exemption and compliance database six months before (on 1st October 2024) to give landlords the opportunity to register their exemption before the new system goes live. This would be for administrative purposes only and would not impact on the start-date of the exemptions themselves.

In addition, landlords would be able to count spend made in 2023 and 2024 towards the cost cap when registering an exemption.

**Question 31: Do you agree that the updated exemption regime should come into force on 1 April 2025? If yes, do you agree that the property compliance and exemptions database should be opened six months prior to commencement of exemptions? If not, please explain why.**

## Simplifying the ‘new landlord’ exemption

The current PRS Regulations recognise that where a person has become a landlord suddenly it would be inappropriate or unreasonable for them to be required to comply with the Regulations immediately. A temporary, six month, ‘new landlord’ exemption is therefore applied.

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<sup>78</sup> MHCLG, [‘A guide to energy performance certificates for the marketing, sale and let of dwellings’](#)

This exemption applies to landlords who fall into any of the categories outlined in the BEIS PRS landlord guidance, for example, the granting of a lease due to a contractual obligation or where the tenant becomes insolvent and the landlord has been the tenant's guarantor.<sup>79</sup>

To evidence the exemption the landlord is required to provide the date on which they became a landlord and a narrative explanation of the circumstances under which this happened.

Government acknowledges stakeholder feedback that this exemption can be perceived as complex. We are therefore seeking views on simplifying this exemption by removing the requirement to demonstrate that the circumstances under which they became a landlord align to those set out in the BEIS guidance. Instead, the landlord would only be required to provide evidence that they have become a landlord within the last six months.

**Question 32: Should the 'new landlord' temporary exemption be simplified so that it applies to any person who has become a landlord within the last six months? Please provide evidence with your answer.**

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<sup>79</sup> See BEIS, [The domestic private rented property minimum standard](#), pp. 63-64.



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This consultation is available from: [www.gov.uk/government/consultations/improving-the-energy-performance-of-privately-rented-homes](https://www.gov.uk/government/consultations/improving-the-energy-performance-of-privately-rented-homes)

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