

# **The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations**

**Department for Business, Energy and Industrial Strategy**

**RPC rating: fit for purpose**

## **Description of proposal**

In 2015 the Government put in place regulations requiring private landlords letting properties in England and Wales to ensure their properties reached a minimum energy efficiency standard of energy performance certificate (EPC) Band E in order to be able to let the properties. The regulation exempted landlords from meeting the standard if doing so meant they faced upfront or net costs. This proposed amendment to the 2015 Regulations places responsibility on landlords to meet the cost of such energy efficiency improvements subject to a cost cap of £3,500.

The counterfactual to which this amendment is compared assumes that the majority of landlords in scope of the 2015 regulations have registered for exemption and have not improved their properties. This is on the basis that 'pay as you save' finance products are currently unavailable so landlords face upfront costs of improving their properties, which under the existing regulation means they qualify for an exemption. The impact assessment (IA) identifies impacts on businesses, tenants and society.

## **Impacts of proposal**

The impacts of the proposal are assessed over a long appraisal period of 42 years. This is justified by the year 2062 being the date at which all measures installed at the start of 2020 will have reached the end of their assumed lifetimes. The Department could have provided further justification in reference to the Green Book's guidance on interventions that reduce climate change risks.

The costs to business (for landlords in particular) relate to installation of energy efficiency measures; the operating of the installed measures; the hidden cost associated with the installation of energy efficiency measures and financial costs. The majority of the cost is made up by the cost of installing the measures, totalling £835 million. The benefits of the policy predominantly fall to tenants and wider society and take the form of energy savings (£739 million); increased comfort from

warmer homes (£204 million); improved air quality (£256 million) and reduced traded and non-traded greenhouse gas emissions (£288 million).

The total net present value (NPV) of the regulations amendments is estimated to be £580 million and the business NPV -£968 million. The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of £34.5 million. This will be a qualifying regulatory provision that will score under the Business Impact Target.

## Quality of submission

The IA provides a clear rationale for intervention and clear breakdown of where the costs and benefits will fall. The Department monetises the relevant costs and benefits and explains the methodology and assumptions used to estimate these impacts. It provides a correct EANDCB and a sufficient small and micro business assessment (SaMBA). The RPC considers the Department's rationale for not excluding small and micro businesses to be justified and proportionate. As almost all domestic landlords are classified as small and micro businesses, exclusion would lead to a loss of almost all benefits of the policy. The mitigations considered in the SaMBA are the establishment of the cap and access to funding, the use of agencies and the publication of guidance. However, the SaMBA should contain more evidence on the proportion of small and micro business owners within the number of F and G rated properties specifically.

The RPC has identified a number of areas that should be addressed before the policy is implemented and the IA is published:

- **Further justification should be provided for choosing the preferred option.** The opinion issued to the Department on the consultation stage IA noted that the policy option chosen did not maximise the NPV or minimise the cost to business. It was estimated at consultation stage that Option 1 would deliver the highest NPV and the lowest cost to business of all the listed options. This final stage IA explains that Option 4 was the preferred option of consultees. The IA should, therefore, discuss the decision to choose Option 3, drawing on evidence from the cost benefit analysis and the consultation. An NPV, weighted on the basis of equity, is provided but this is not compared to the other options.
- **The SaMBA should be strengthened.** While the SaMBA is considered sufficient, the Department should provide more detail on the steps taken to mitigate the potential disproportionate impact on F and G rated property landlords specifically. The IA assumes that the distribution of property

ownership for F and G rated properties is the same as that for the overall private rented sector (PRS), but does not provide further evidence to justify this assumption. If there is no available evidence this should be made clear in the IA. In addition, it seems possible that a higher proportion of F and G rated property owners would not use letting agencies than the 39 per cent used for the whole market. If so, this would limit the extent to which letting agencies mitigate the disproportionate impact on small and micro businesses.

- **Sensitivity analysis should consider the uncertainty of benefits.** A range is provided for the uncertainty in costs but the IA does not explore fully the uncertainty around the level of benefits that will be realised. To improve the IA, a range should also be given for the level of benefits. The IA should also discuss the risk of the policy not meeting its objectives, particularly in relation to the fuel poverty target.
- **The IA should provide further justification for the assumption that Local Authority enforcement costs will remain the same.** Because many fewer landlords will be able to qualify for exemptions, the pool of non-compliant landlords could become much larger than it is currently. The exemptions will also be more complex to apply if Local Authorities have to consider whether a landlord has done enough. This could lead to more difficult or time-consuming determinations and result in higher enforcement costs.
- **The IA should include a section on monitoring and evaluation.** This should outline what will be done to monitor the success of the regulation and how this will inform the post implementation review.

The RPC has identified the following additional areas for improvement:

- **The IA could consider in more detail the potential cost to tenants.** Tenants living in F and G rated homes could be in a worse financial situation than the rest of the PRS. This means that the impact on them could be greater if rents were to increase. The IA states that rent is unlikely to increase, but the risk of this and potential impact could be explored in more detail.
- **The counterfactual assumes that some replacement of boilers and switching to low energy lighting will occur as a result of other measures.** Where these replacements and switches are carried out earlier as a result of the PRS regulations, the costs and benefits of the measures are calculated as if they were brought forwards by the regulations. It is not clear whether the total costs and benefits are included as if they were as a direct result of the PRS regulations, or whether it is the difference between the impact now and the impact in the future that is included. This could be made clear in the IA.

- **The IA could be clearer on familiarisation costs.** Familiarisation and compliance costs are presented as a negative cost. Combining these costs makes it unclear which part results in a saving. To improve, the IA could present the familiarisation cost and the cost of demonstrating compliance as costs and present the saving from not having to apply for an exemption every five years as a benefit. This would be clearer than presenting it as a negative cost.
- **The IA could provide further justification for the assumptions made in the *Appraisal period and re-installation of measures* section.** The IA could provide further justification in reference to the Green Book's guidance for why an appraisal period of 42 years has been used. Further justification could also be provided for the assumption that landlords will replace measures on a like-for-like basis as they expire. This assumption could be uncertain and sensitivity analysis could usefully be undertaken to explore this.

### Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£34.5 million
Business net present value	-£968 million
Overall net present value	£580 million

### RPC assessment

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated	£34.5 million (2014 prices, 2015 PV)
Business impact target score	£172.5 million
Small and micro business assessment	Sufficient

Regulatory Policy Committee