

# Your Guide to Energy Efficiency in the Private Rental Sector



# Introduction

Did you know that there are new laws coming into effect from the 1st April 2016, which will affect private landlords? These new laws reinforce your tenants' rights to energy efficiency at home and your obligations to assist them in becoming more energy efficient. From April 2018, it will also be unlawful to let domestic properties below a certain efficiency standard, with fines imposed on those who do not comply

The good news is that you have some time to get to grips with the legislation as landlords are not expected to improve their property if it means incurring an upfront cost.

However, the Government is expected to launch a new Scheme in spring enabling landlords to improve the efficiency of their properties without the need for upfront costs. The Scheme will replace the now discontinued, Green Deal and will be the final piece in the jigsaw to set the framework for energy efficiency compliance.



“Landlords have some time to improve their properties but at the very least should commission an Energy Performance Certificate now to find out where they stand.”

James Hutton  
Managing Director of Harvey W James.

# Contents

## New and Existing Legislation

Tenants' Energy Efficiency Improvements	4
Minimum Energy Efficiency Standards	5
Improvement to Tenant Rights	6
Housing Health and Safety Rating System	7

# Tenants' Energy Efficiency Improvements



From the 1st April 2016 all domestic tenants have the right to request energy efficiency improvements to their properties.

This new regulation applies to domestic properties let under longer term assured and regulated tenancies. Your tenant is likely to be eligible to request energy efficiency improvements if he or she:

- Pays Rent to you
- Has control over their home
- Does not live in the same building as you
- Moved into the property between 15 January 1989 and 27 February 1997 with no notice given, that they have an assured shorthold tenancy.

## Can a residential private landlord refuse a tenants request?

If the building is exempt from having an EPC then you are not required to provide consent. Your tenant must also show that the improvements could be installed with no upfront cost to you. Don't forget that the new year is expected to bring a funding scheme which acts as a replacement for Green Deal. Such a Scheme is intended to facilitate energy efficiency without the need for upfront costs.

If a tenant considers that the landlord has not complied with the regulations, they can take the case to a First-tier Tribunal General Regulatory Chamber, which will hear and determine applications.

# Minimum Energy Efficiency Standards



From April 2018 changes to legislation will make it unlawful to let residential properties with an Energy Performance Certificate with a rating of below an E

In an attempt to ensure that all tenants enjoy a right to living in an energy efficient home, a new Minimum Energy Efficiency Standard will be phased in over the next five years.

**Phase one** - from 1st April 2018, private rental properties must achieve an energy efficiency rating of at least E on their Energy Performance Certificate (EPC). The regulations will initially only apply upon the granting of a new tenancy to:

- A new tenant
- An existing tenant

**Phase two** - from 1st April 2020, the regulations will apply to ALL privately rented property which are required to have an EPC.

## What does this mean for Landlords?

An EPC is already required to let or market a property legally, but the new laws around Minimum Efficiency Standards mean that an EPC of rating F and G is not sufficient for compliance. If your property does not meet the minimum standard, you cannot let or market that property within the law and rent reviews could also be affected.

## Penalties for non-compliance

Financial penalties for non-compliance is £5000 in the domestic sector.



# Improvement to Tenant Rights



The Deregulation Act protects tenants against unfair eviction where they have raised a legitimate complaint about the condition of their home. This includes issues about its energy efficiency.

New legislation will also affect your rights to evict a tenant who has a legitimate complaint concerning your energy efficiency compliance. Shorthold tenancies granted on or after 1st October 2015 are subject to new rules brought about by Section 33 of the Deregulation Act. The rules are designed to prevent 'retaliatory eviction' practices and effectively make it more difficult for you to serve a section 21 eviction notice to tenants where complaints have been raised about the condition of your property. This would include complaints about its energy efficiency.

## What does this mean for Landlords?

Before serving a section 21 notice you must be able to demonstrate that you have complied with the relevant legal obligations concerning:

- The condition of the dwelling
- The health and safety of occupiers in the dwelling
- The energy performance of the dwelling
- Gas certification

## And

- All the above information has been provided to the tenants.

As such, if you have not provided your tenant with an EPC, you will risk losing the right to issue an eviction notice.

# Housing Health and Safety Rating System



The Housing Health and Safety Rating System (HHSRS) employs a risk assessment approach to minimise the risks from hazards to health and safety in dwellings.

Owners are obliged to comply with any terms of improvement notices or prohibition orders. The landlord is responsible for looking after the exterior of the dwelling as well as installations inside the dwelling.

## **Excess cold**

Excess Cold is one such hazard that can threaten the health of an occupant through low indoor temperatures. This hazard in particular is evidenced through poor heating systems, lack of thermal insulation, excess ventilation, and low energy efficiency ratings. Since the minimum energy efficiency standards have been announced some local authorities have been interpreting dwellings with F and G EPC rating as indicators of hazard, however this should not be automatically assumed.

## **What enforcement action could occur against Landlords?**

If there are any risks to the health and safety of an occupant, the Environmental Health Officer can enforce corrective measures in the form of improvement notices and prohibition orders. The local authority charges for issuing these notices, and failure to comply with them within the specified time frame is deemed a criminal offence.

## Accredited Energy Assessors



Accredited energy assessors can assess a property's energy efficiency and produce an EPC either for an individual property or across a landlord's housing portfolio.



For more information contact Harvey W James:

T: 020 3865 1500

E: [info@harveywjames.com](mailto:info@harveywjames.com)

[www.harveywjames.com](http://www.harveywjames.com)