



Department for
Business, Energy
& Industrial Strategy

DOMESTIC PRIVATE RENTED SECTOR MINIMUM LEVEL OF ENERGY EFFICIENCY

Consultation to amend *The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* in relation to domestic properties to remove the “no cost to the landlord” principle

December 2017

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Domestic Private Rented Sector Minimum Level of energy efficiency

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General information

Purpose of this consultation

This consultation sets out Government proposals to amend Part 3 of the *Energy Efficiency (Private Rented Property)(England and Wales) 2015* to introduce a potential need for some contribution from landlords of F and G rated domestic properties when meeting the domestic minimum level of energy efficiency. The consultation seeks views from landlords, tenants, agents, obligated energy suppliers, and others with an interest in the energy efficiency of the domestic private rented sector in England and Wales, on the proposals.

Alongside this consultation document we have published the following supporting documents:

- a draft impact assessment
- a catalogue of consultation questions

We would like to hear views from all those with an interest, including landlords, tenants, organisations which provide support to households in fuel poverty, local authorities, and lettings agents.

Issued: 19 December 2017

Respond by: 13 March 2018

Enquiries to:

The PRS Minimum Standards Team
Department for Business, Energy & Industrial Strategy,
Level 6 Orchard 1
1 Victoria Street
London
SW1H 0ET

Email: PRSconsult@beis.gov.uk

Consultation reference: Domestic Private Rented Sector Minimum Level of Energy Efficiency

Territorial extent:

This consultation is for England and Wales only.

How to respond:

Your response will most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Where possible, responses should be submitted electronically via the e-consultation available at: <https://beisgovuk.citizenspace.com/home-local-energy/prs-minimum-energy-efficiency->

[standards](#). This is our preferred method for receiving responses. However, responses sent to the postal address or email address set out above will also be accepted.

To aid our analysis, please state 'yes' or 'no' to indicate whether you agree or disagree with each proposal. If you have information which supports your view, we invite you to provide details in support of your response.

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Electronic copies of the consultation document, impact assessment and associated documentation can be found on BEIS's website at: <https://www.gov.uk/government/consultations/>

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the *Freedom of Information Act 2000*, the *Data Protection Act 1998* and the *Environmental Information Regulations 2004*).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on the [GOV.UK website](#). This 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](#).

General information

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

Email: enquiries@beis.gov.uk

Executive Summary

This consultation seeks views on the Government's proposal to amend the domestic Minimum Energy Efficiency Standard Regulations within the *Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015* (from now on referred to as the "minimum standard regulations").

The proposed amendments would strengthen the domestic minimum standard regulations by removing the existing 'no cost to the landlord' principle and introducing a 'landlord funding contribution' component where a landlord is unable to obtain suitable 'no cost' funding. To protect landlords from excessive costs, Government is intending to introduce a cost cap: a limit on the amount any landlord would need to invest in an individual property. A cost cap of £2,500 per property is proposed.

The objective of these proposals is to ensure that the domestic minimum standard regulations deliver the range of benefits originally envisaged from them. These benefits include lower energy bills for private rented households, improved health outcomes as a result of warmer homes, and lower overall energy demand.

Introduction

The domestic private rented sector (PRS) represents a substantial and growing part of the UK's housing market. The English Housing Survey (EHS) reported that in 2015-16, around 20% (4.5 million) of households were renting privately¹. The Government is committed to a bigger, better, more secure private rented sector, as set out in the affordable housing programme and the package of measures for renters in the February 2017 Housing White

¹ English Housing Survey 2015/16: <https://www.gov.uk/government/statistics/english-housing-survey-2015-to-2016-headline-report>

Paper². An essential part of this ambition is ensuring that privately rented homes are of good quality, meeting modern standards of comfort and with affordable energy bills for tenants.

Achieving this ambition requires increasing the energy efficiency performance of homes in the sector. Improving a home's energy efficiency helps the occupants keep warm, reduces their energy bills and provides better protection for their health and wellbeing. Those benefits are particularly important to households on lower incomes and in homes which are expensive to heat.

Energy efficiency improvements can benefit landlords too in the form of reduced long term property maintenance costs, increased rentability, increased tenant satisfaction, reduced void periods, and ultimately in increased sale value of the property. A number of studies have shown a robust link between higher standards of energy efficiency and increased property values. The Government believes that the likely benefits of an improved property will outweigh any costs resulting from the regulatory amendments proposed through this consultation.

Energy efficiency also brings wider benefits to society as a whole. The cleanest, cheapest and most reliable energy is the energy which we do not use, and successful implementation of the minimum standard regulations will reduce system pressures, helping make supplies more secure and reducing carbon emissions, which is essential to meeting the UK's climate change targets.

The Minimum Energy Efficiency Standard

The minimum standard regulations, which take effect from April 2018, require private landlords to ensure their properties meet a minimum energy efficiency standard of Energy Performance Certificate (EPC) Band E, or get as close to it as is possible using available third party funding. Modelling and forecasting derived from the 2014 English Housing Survey indicated that there are currently around 280,000 domestic PRS properties in England and Wales with an EPC rating of Band F or Band G. This represents less than 6% of the overall domestic rental market.

Under the minimum standard regulations, landlords of these properties must take the necessary steps to improve the energy efficiency of their properties the first time they re-let their property after April 2018, provided that improvements can be made at 'no cost to the landlord', with the 'no cost' improvements financed through 'Pay As You Save' funding, grant funding, or subsidy³.

² The Housing White Paper "Fixing our broken housing market" and the associated consultation can be found at: www.gov.uk/government/collections/housing-white-paper

³ Published guidance on the domestic minimum standard regulations was published in October 2017 and can be found at: <https://www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents>

The *Clean Growth Strategy*

The Government's [Clean Growth Strategy](#), published in October 2017, set out our proposals for decarbonising all sectors of the UK economy through the 2020s. The *Strategy* announced Government's intention to consult on steps to make the minimum standard regulations more effective. This consultation document sets out Government's proposals for achieving this.

In addition the Clean Growth Strategy announced that the Government will look at a long term trajectory for energy performance standards across the private rented sector, with the aim of as many private rented homes as possible being upgraded to EPC Band C by 2030, where practical, cost-effective and affordable. Please note this trajectory work is not discussed in this document although this will be subject to a separate consultation in due course.

Why amendments to the minimum standard regulations are necessary

The minimum standard regulations were approved by Parliament in the expectation that Pay As You Save funding, as provided by Green Deal finance, would be available to fund a significant proportion of the required improvements (see box three in chapter two for more details on Green Deal finance). This finance option would have satisfied the 'no cost to the landlord' principle. In 2015, the Government ended public investment in the Green Deal. Since then, the scheme has remained in operation so that existing Green Deal Plans can be serviced, and to allow for any private finance providers to enter the market. The level of activity has, however, been comparatively low. More recently, there have been signs of renewed interest in the Green Deal. For instance, the Green Deal Finance Company was sold to new owners in January 2017 following which Green Deal Plans are again being offered. Other private finance providers have also expressed interest. However, the full extent to which the market might develop is yet unclear.

Supplier obligation funding (such as the Energy Company Obligation (ECO) scheme) will continue to be available until at least 2022 and will support the delivery of measures to qualifying households, including those in the private rental sector. However, supplier obligation funding alone will not be sufficient to prompt the level of take up of improvements needed in the sector, and there may not be other funding available to remove all of the costs from landlords.

As a result of these shifts in the funding landscape, it is highly likely that many landlords of F and G rated rental homes will be unable to deliver improvements in line with the current regulatory requirements. This would be to the continued detriment of their tenants and would mean that the regulations would fail to achieve the wider benefits touched upon in the introduction above.

The regulatory amendments proposed in this consultation paper are designed to ensure that these benefits can be achieved at a reasonable cost to landlords, irrespective of the funding opportunities which may be available over the coming years. The key amendment proposed would remove the 'no cost to the landlord' principle. This would result in a potential need for

some financial contribution from domestic landlords where full or part funding is unavailable to meet the costs of improving F or G rated properties to EPC Band E.

A cost cap, and average costs

The policy proposal described above is likely to result in a proportion of landlords of EPC Band F and G rated domestic private rented properties having to meet some or all of the cost of improving their property to the E threshold. Government believes that it is important to balance the needs of landlords and tenants however, and that this requirement should be fair and proportionate. Therefore, the Government is seeking views on establishing a ‘cost-cap’ to ensure that any landlord funded improvements are made at reasonable cost. The Government proposes that landlords’ investment in improvements to an F or G rated property should not exceed £2,500 per property. Table 1 below sets out some of the key impacts of a £2,500 cap. Alternative options for cap levels are set out in Chapter Three, and discussed in depth in the accompanying consultation stage impact assessment.

Table 1

Cap	% of homes reaching Band E	Estimated number of homes reaching Band E	Estimated average cost of achieving Band E or above	Net Benefit (NPV)(£m)	Estimated value of improvements in tenant health (£m)	Estimated average annual energy savings for tenants
£2,500	30%	85,000	£865	200	78	£95

Data taken from the impact assessment published alongside this consultation document

Under this ‘cost-cap’ proposal, the regulatory requirement would be to improve sub-standard properties to a minimum of EPC Band E, rather than to spend up to the value of the cap. Where a landlord can improve a sub-standard property to EPC E for the value of the cap or less, or where they can secure full or part funding for the improvements from a third party (Green Deal, ECO funding etc.), they will have met the requirement. (Where an improvement would cost more than the value of the cap but the landlord is able to get it fully funded through third party funding, the landlord would be expected to make that improvement.)

In practice, the amount a landlord may need to see invested in their F or G rated stock will vary depending on the energy efficiency score of individual properties, and the measures available to improve them. As shown above, our analysis indicates that the average cost of improving an F or G rated domestic PRS property to EPC Band E is likely to be around £865. Actual costs will be determined by the current standard of an individual property and the local market costs of making particular improvements. This is set out in more detail in the accompanying consultation stage impact assessment.

Box One

Summary of key points of the cost-cap proposal:

- I. Proposal to remove the 'no cost to the landlord' principle within the current domestic minimum standard regulations.
- II. Where a landlord contribution is made to improve an EPC F or G rated property to E, there would be a cap on required energy efficiency spend, so the maximum amount a landlord may have to pay (per property) would be the value of the cap – a £2,500 cap is proposed here;
- III. Where landlords can obtain funding for the improvements required, for example, through ECO, they won't have to contribute their own funds. Landlords would be required to contribute only what is necessary to bring the property up to an EPC Band E or as near as technically feasible up to the value of the cap. Our analysis shows a majority of landlords will need to pay significantly less than the cost-cap to achieve this. Where part funding can be obtained, landlords only have to make up the balance of the cap, not another £2,500 in addition to this.

Additional Consultation Proposals

Exemption Evidence

The minimum standard regulations set out a limited number of exemptions which landlords may rely on in certain circumstances. Most of these would continue to operate following an introduction of the proposed cost-cap amendment, and a new exemption would be added to account for improvements which exceed the cost-cap. In the case where there are improvements which could be made to a property, but a landlord intends to claim the new exemption on the basis that none can be made within the funding cap, Government believes that the landlord should be required to provide evidence to demonstrate this 'high cost'. For this exemption, the Government intends to use the evidence requirements already established by the non-domestic minimum standard regulations as a template, and is seeking views on this proposal in this consultation.

Curtailment of existing 'No Cost' Exemptions

As described above, under the existing minimum standard regulations, landlords are entitled to register an exemption from meeting the minimum standard if they are unable to access 'no cost' funding to cover the full cost of improvements. Landlords have been able to register such exemptions from 1 October 2017, and exemptions are valid for a period of five years from the date of registration. If a significant number of landlords of F or G rated properties register 'no cost' exemptions before the introduction of the proposed 'cost cap' amendment, many of the benefits of introducing such an amendment would be deferred for five years.

For this reason, Government is seeking views on a proposal to curtail the validity of any 'no cost' exemptions registered between October 2017 and the point at which amended regulations came into force (currently anticipated to be 1 April 2019). The proposal is that any

such 'no cost' exemptions would end when the new regulations came into force. Landlords affected by this curtailment would then need to take steps to improve their F or G property or properties from April 2019 in line with the requirements of the amended regulations, or register a new exemption, where applicable.

Green Deal Consent Exemption

Under the existing minimum standard regulations, a landlord may claim an exemption if they are intending to use Green Deal finance to fund improvements but their tenant withholds consent to have the Green Deal charge attached to their electricity account. We are seeking your views on whether this exemption should be retained in future.

Next Steps

This consultation will inform the preparation of draft amending regulations. After gathering views, the Government plans to issue its response to the consultation in spring 2018, lay the amending regulations by summer 2018, and make amending regulations during autumn 2018. This will provide clarity to domestic sector landlords about the future direction of the minimum standard, so that they can make informed judgements about investing in their property portfolio. It is the Government's intention that amended minimum standard regulations will take effect from 1 April 2019.

Catalogue of consultation questions

Consultation Questions

1.	<p>Do you agree with the policy proposal under consideration here to introduce a landlord contribution element where funding is unavailable to ensure improvements to Band F and G properties can be delivered (unless a valid exemption applies)? This would be subject to a cost cap.</p> <p>If you do not agree, what are your objections, and how do you recommend the energy efficiency minimum standard should be achieved, given the current funding climate? Please provide reasons and evidence where available to support your views.</p>
2a.	<p>Do you agree that a cost cap for improving sub-standard domestic private rented property should be set at £2,500?</p> <p>If you do not agree, what would be the most appropriate level to set the threshold? Please provide reasons and evidence where available to support your views.</p>
2b.	<p>Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?</p>
3.	<p>Do you agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017?</p> <p>If you do not agree, what would be the most appropriate way of taking account of previous spending on measures which have failed to raise a property above EPC F or G? Please provide reasons and evidence where available to support your views.</p>
4.	<p>Do you agree with the proposal that where a landlord contributes to the improvement, the cost cap threshold should be inclusive of any funding which can be obtained through a 'no cost' finance plan (including a Green Deal finance plan), Supplier Obligation Funding (for example, ECO: Help to Heat or a successor scheme), or</p>

	<p>energy efficiency grant funding from a Local Authority or other third parties?</p> <p>If you do not agree, please provide reasons and evidence where available to support your views.</p>
5.	<p>Do you agree that it is not necessary to place a regulatory duty on energy suppliers, or their agents, to provide landlords with cost information relating to the value of energy efficiency improvements made to the landlord's property through a supplier obligation?</p>
6.	<p>Where a landlord is intending to register a 'high cost' exemption, should the landlord be required to provide three quotes for the cost of purchasing and installing the measures, in line with the non-domestic minimum standards?</p> <p>If you do not agree, please provide reasons and evidence where available to support your views.</p>
7.	<p>Do you agree with the proposal to limit the validity of any 'no cost to the landlord' exemptions (under Regulation 25(1)(b)) registered between October 2017 and the point at which a capped landlord contribution amendment comes into force?</p> <p>If you do not agree, what are your objections, and how do you recommend that the minimum standard regulations be amended to ensure the energy efficiency improvements are delivered to such properties which might otherwise be left unimproved once the amended regulations came into force? Please provide reasons and evidence where available to support your views.</p>
8.	<p>Do you have views on whether the consent exemption under Regulation 31(1)(a)(ii) should be removed from the minimum standard regulations or retained?</p> <p>Please provide reasons and evidence where available to support your views.</p>
9	<p>Do you have any comments on the policy proposals not raised under any of the above questions?</p>

10a	Do you have any evidence or comments regarding the consultation impact assessment (including views on any of the assumptions we have made to support our analysis), which could inform the final stage impact assessment?
10b.	Do you have any evidence or information on the potential for these proposals to impact on the PRS market, including any potential for landlords who are required to act by the minimum standard regulations to pass through costs to tenants after making improvements to their properties?
10c.	Can you provide any evidence on the likely costs associated with the compilation of evidence in advance of registering an exemption on the PRS Exemptions Register?

Chapter One: Introduction

The Government is committed to creating a bigger and better private rented sector, one which is easily accessible to existing and future tenants, and which meets their accommodation needs.

The Government has already introduced a package of measures through the *Housing and Planning Act 2016* to crack down on unscrupulous landlords and property agents who exploit their tenants by renting out unsafe and substandard accommodation. As support to this, the Government is committed to ensuring that the 2015 minimum standard regulations deliver warm and comfortable homes for as many private tenant families across England and Wales as possible, and that standards continue to rise across the sector. The proposals set out in this consultation are designed to ensure that this is achieved.

1. *The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015* were made in March 2015. Part three of the regulations set the minimum energy efficiency standard for the private rented sector in England and Wales for both domestic and non-domestic property⁴. The minimum standard is set at Energy Performance Certificate (EPC) energy efficiency Band E⁵. As noted in the Executive Summary, for the purposes of this consultation document these regulations are referred to as the “minimum standard regulations”.

⁴ The minimum standard regulations are available here: http://www.legislation.gov.uk/ukxi/2015/962/pdfs/ukxi_20150962_en.pdf This has been amended by *The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2016* (<http://www.legislation.gov.uk/ukxi/2016/660/contents/made>)

⁵ Energy Performance Certificates (EPCs) rate the performance of domestic and commercial buildings in terms of the energy use per square metre of floor area, energy efficiency based on fuel costs and environmental impact based on carbon dioxide emissions. The rating is based on the designed performance of the building itself and its services. The certificate includes an A-G performance rating (A being the highest rating, G being the lowest) and a recommendation report with suggestions to reduce energy use and carbon dioxide emissions. An EPC is required for almost all buildings in England and Wales when built, sold or rented.

2. For domestic private rented property, the minimum standard regulations currently only require landlords to make energy efficiency improvements which can be undertaken at no cost to themselves. In other words, the landlord is not required to contribute to the cost of purchasing and installing the energy efficiency measures required to improve the EPC rating of a property.⁶
3. It was originally anticipated that to fund improvements, landlords would make use of Green Deal finance, which may in some cases be further subsidised, for example by supplier obligation funding or local authority grants, allowing them to meet the minimum standard while avoiding cost.
4. This consultation sets out the Government's proposal to amend the minimum standard regulations to introduce some financial contribution from domestic landlords, subject to a cost cap, in instances where alternative funding may not be available. This would be where Green Deal finance, supplier obligation subsidy, or other 'no cost to the landlord' funding is unavailable, or is unavailable in sufficient quantity to enable a property to be improved to the E threshold.
5. As discussed in detail in chapter three, the cap proposed is £2,500 per property⁷. This means that the maximum amount a landlord may be expected to see invested in a property would be £2,500, inclusive of any third party funding they can secure. It does not mean that a landlord of an F or G rated property would be expected to spend £2,500 on energy efficiency improvements on a property where that property could be improved to E for less than that amount. In such cases the only requirement would be to make those improvements which are necessary to reach E (or as close as possible within the cost cap).
6. As discussed later in this consultation, and in the accompanying impact assessment, our analysis suggests that with a cap set at £2,500, the *average* cost of improving an F or G rated property to E is approximately £865. Additionally, our analysis shows that the average cost for those who are able to make some improvements to an F or G rated property but are unable to meet band E is £1,025 (in this scenario a landlord may be unable to make further improvements to a property simply because there are no other improvements which can technically be made, or because, while further improvement are technically possible, making them would push the cost above the level of the cap).
7. Alongside this key 'cost cap' amendment, a number of additional amendments are proposed to support implementation of this new requirement. Where a landlord is applying for an exemption on the grounds that a relevant energy efficiency improvement

⁶ Published guidance on the domestic minimum standard regulations was published in October 2017 and can be found at: <https://www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents>

⁷ 'Property' has the meaning given in the minimum standard regulations, either a building or a building unit.

could not be made within the cost-cap amount, we are proposing that the landlord would be required to provide evidence of likely costs in the form of three quotes (Q6). Additionally, the consultation seeks views on whether 'no cost' exemptions registered before a 'cost cap' amendment is introduced should be curtailed (Q7.) Views are also sought on whether regulation 31(1)(a)(ii), which permits landlords to claim an exemption from meeting the minimum standard where their tenant refuses consent to a Green Deal plan, should be removed or retained (Q8).

8. No further changes are proposed to the wider regulatory framework at this time, including the non-domestic provisions, and views are not being sought in relation to the application or operation of the minimum standards policy as a whole, for example on types of buildings and tenancies in scope of the minimum standard regulations, or the enforcement framework. As such, any views submitted on discrete policy elements outside of the immediate issues under consideration here cannot be considered as part of this consultation.

Overview of the Domestic Private Rented Sector

9. The domestic private rented sector 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 2015-16, 20% of all households in England were private renters. This equates to 4.5 million households. In Wales the private rented sector makes up approximately 14% of homes, equating to approximately 180,000 households.
10. The sector is characterised by its diversity and choice. This is demonstrated by the wide range of characteristics, attitudes, needs, expectations and experiences of those providing rented properties as well as the households who reside there. The sector is also characterised by high rates of turnover in terms of both tenants and landlord ownership. Previous research has discussed this in terms of both the positive and negative aspects of 'churn'⁸. These sources have reported that, for example, 'churn' in tenants can impact on management and maintenance of properties while 'churn' in landlords can impact on their professionalism and commitment. Impacts such as these, as well as barriers related to landlord and/or tenant inertia, and access to finance, have contributed to challenges in establishing consistent standards across the sector, including standards in energy efficiency and heating.

⁸ Rugg, J. and Rhodes, D. (2008). *The Private Rented Sector: Its contribution and potential*. Centre for Housing Policy, The University of York.

Crook, A.D.H., and Kemp, P., Barnes, Y. and Ward, J. (2002) *Investment Returns in the Private Rented Sector*, London: British Property Federation

Energy efficiency in the domestic PRS

11. Based on data gathered through the 2014 English Housing Survey, if all PRS properties in England and Wales were required to obtain or display an EPC when they were let out, we estimate there were around 280,000 domestic PRS properties in England and Wales with an EPC rating of Band F or Band G in 2016.
12. Energy cost data shows that those household in the private rented sector who live in F or G rated properties face significantly higher energy costs of keeping warm than typical households, needing to pay on average over £600 per year more than E-rated PRS homes and almost £1,000 more per year than the average home⁹.
13. English Housing Survey data suggests that the potential to apply low cost energy efficiency measures (costing less than £500) is particularly high amongst private rented dwellings. For example, around 43% of private rented dwellings with uninsulated cavity walls could potentially benefit from insulation and 27% with a loft could benefit from loft insulation. Almost a third (31%) of private rented homes with a hot water cylinder would benefit from insulating it compared with 25% of owner occupied homes.¹⁰ A further proportion would still be able to benefit from these or other energy efficiency improvements, although for costs greater than £500.
14. Table 2 below shows the distribution of EPC bands across the domestic private rented sector in England (corresponding data for Wales is not currently available)

Table 2 – Domestic PRS in England

Band	Percentage of PRS properties
A/B	1.2%
C	25.2%
D	48.7%
E	18.6%
F	4.5%
G	1.8%

⁹ Typical energy cost to heat a home based on dwelling and household characteristics. BEIS analysis based on EHS 2015/16

¹⁰ More information can be found at the English Housing Survey Energy Report at: <https://www.gov.uk/government/statistics/english-housing-survey-2014-energy-report>

15. Further information on the breakdown of F and G rated private rented property can be found at Annex A of the accompanying impact assessment¹¹.

Fuel Poverty in the Private Rented Sector

16. The comparatively high proportion of energy inefficient homes in the private rented sector also contributes to disproportionately high levels of private rented sector households living in fuel poverty. The most recent fuel poverty data indicates that households living in private rented sector accommodation have the highest prevalence of fuel poverty, 21.3% compared to 7.4% in the owner occupier sector¹², but rising to 45.7% when we look at the PRS F and G stock. This means that the minimum standards regulations are likely to be particularly helpful in supporting those households most likely to benefit from improved energy efficiency.
17. While data does show that the number of privately rented properties with F or G EPC ratings with occupants in fuel poverty has fallen slightly in recent years, there is clearly much more that can be achieved.

Box Two

Fuel Poverty

England: In England, a household is considered to be in fuel poverty if the home has higher than typical energy costs (for instance because of poor energy efficiency) and, were they to spend that amount on energy, they would be left with a residual income below the official poverty line. Households who meet both conditions are referred to as Low Income High Costs (LIHC). According to the latest official statistics, there are just over 2.5m households living in fuel poverty in England.

Wales: Wales (and Scotland) use variations of the 10% fuel poverty indicator, whereby a household is considered fuel poor if they need to spend more than 10% of their net income on energy. In Wales a household is considered to be in severe fuel poverty if they have to spend 20% or more.

¹¹ Further information on the English private rented sector can be found in the English Housing Survey: <https://www.gov.uk/government/statistics/english-housing-survey-2015-to-2016-headline-report>

¹² More information on fuel poverty can be found in the 2016 annual fuel poverty statistics report at: <https://www.gov.uk/government/collections/fuel-poverty-statistics#2014-statistics>

The Fuel Poverty Strategy

In March 2015, the Department (then the Department of Energy and Climate Change (DECC)) published a new fuel poverty strategy, *Cutting the cost of keeping warm: a fuel poverty strategy for England*. The Strategy set a statutory target to ensure that as many fuel poor homes as is reasonably practicable achieve a minimum energy efficiency rating of Band C, by 2030. The strategy set out England's roadmap for meeting the statutory fuel poverty target in a way that reflects a number of guiding principles – prioritising the worst cases first, taking account of vulnerability and deploying cost effective policies. The strategy also includes interim milestones for as many fuel poor homes as is reasonably practicable to achieve energy efficiency Band E by 2020 and Band D by 2025. This focuses attention on reforming policies to support the least energy efficient low income households. The proposals discussed in this consultation to ensure the minimum standards regulations are effective would support delivery of the 2020 interim milestone.

Chapter Two: *The minimum standard regulations 2015*

The following chapter provides an overview of the existing minimum standard regulations, including their scope, funding provisions and the exemptions available to landlords of EPC F and G rated domestic private rented properties. The chapter also discusses how the current minimum standard regulations relate to Green Deal finance and the Energy Company Obligation.

Overview of existing minimum standard regulations

18. The dates from which the minimum standard regulations come into force are as follows:

- From 1 April 2018, landlords of domestic and non-domestic privately rented properties in England and Wales may not grant a tenancy to new or existing tenants unless the property has an Energy Performance Certificate (EPC)¹³ rating of E or above, or unless a valid exemption has been registered. (This is specifically required by the *Energy Act 2011* as the date when the first regulations must come into force)¹⁴.
- The minimum standard requirements will then apply to *all* let private rented properties – even where there has been no change, extension or renewal of tenancy – from 1 April 2020 in the domestic sector, and from 1 April 2023 in the non-domestic sector¹⁵.

Domestic private rented properties which fall below an EPC rating of E are referred to in the minimum standard regulations as ‘sub-standard’. The ban on renting out property which

¹³ Energy Performance Certificates present the energy efficiency of buildings on a scale of A to G. The most efficient properties – which should have the lowest fuel bills – are in Band A. The least efficient are in Band G.

¹⁴ Section 43(6) of the Energy Act 2011 (for domestic properties) and section 49(6) of the Energy Act 2011 (for non-domestic properties).

¹⁵ Published guidance on the non-domestic minimum standard regulations was published in February 2017 and can be found at www.gov.uk/government/publications/the-non-domestic-private-rented-property-minimum-standard-landlord-guidance.

falls below this E threshold is referred to in the regulations as ‘the prohibition on letting of sub-standard property’¹⁶.

Properties required to comply with the minimum standard

19. The domestic minimum standards will apply to all properties described in regulation 19 of the minimum standard regulations. These are privately rented properties in England and Wales which are legally required to have an EPC¹⁷, and where the tenants are on assured tenancies under the *Housing Act 1988*, regulated tenancies under the *Rent Act 1977* or certain agricultural tenancies¹⁸. Where a privately rented property is not legally required to have an EPC (for instance because it has been let continuously to the same tenant since before EPCs were introduced in 2008), the property will be outside of the scope of the minimum standard regulations and will not be required to comply with the minimum standard.
20. The minimum standard regulations confer enforcement duties for the domestic minimum standards to local authorities¹⁹.

‘Soft’ introduction and ‘hard’ backstop

21. The April 2018 implementation date for the minimum standard regulations represents a ‘soft’ introduction to the requirement to not let a property with a rating of below E, applying only to tenancies granted to new tenants (or renewed or extended tenancies granted to existing tenants) on or after 1 April 2018. Therefore, there are likely to be a significant number of F and G rated domestic private rented properties which can continue to be lawfully let after the April 2018 implementation date. These properties will only need to comply with the requirements of the minimum standard regulations from the point after April 2018 at which a new tenancy is granted.
22. This ‘soft start’ approach is intended to work with the grain of the tenancy cycle and to capitalise on void periods when a property is empty to install measures and minimise potential disruption to existing tenants.
23. The backstop date of 1 April 2020 then applies the requirements of the minimum standard regulations to *all* domestic sector properties, even if there has been no change in tenancy. By this April 2020 date, all landlords of F or G rated domestic properties

¹⁶ Chapter Three of the *Energy Act 2011* confers similar powers (not a duty) to Scottish Ministers to set minimum standards. The Scottish Executive has not yet made minimum standard regulations in Scotland. However, they are/have issued a consultation document on their proposals by April 2017.

¹⁷ The EPC requirement captures all private rented properties required to have an EPC under the *Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007*, the *Building Regulations 2010* or the *Energy Performance of Buildings (England and Wales) Regulations 2012*.

¹⁸ <http://www.legislation.gov.uk/ukxi/2015/799/contents/made>

¹⁹ ‘Local authority’ means a local authority within the meaning given in section 106 of the *Localism Act 2011*.

captured by the regulations must have taken action. Action means either taking steps to improve the property to meet the E standard (or as close as possible), or registering an exemption if applicable. This 'hard' backstop was intended to allow the sector, the supply chain and enforcement agents time to plan and act before the minimum standard regulations apply to all relevant tenancies and ensure that longer tenancies do not remain outside the regulations.

24. When the domestic backstop bites in 2020, properties which are not legally required to have an EPC (for example because they have been let continuously to the same tenant since before the EPC regulations came into effect in April 2008), would not be caught by the minimum standard regulations. This is because the property would not have an EPC on which to apply the regulatory requirement.

Energy efficiency improvements

25. Where a property covered by the minimum standard regulations has an EPC rating of F or G, the landlord will need to consider which improvements they would like to make to improve the energy efficiency rating of that property. The existing minimum standard regulations permit the installation of any measure (or combination of measures) recommended for the property in a valid energy efficiency recommendations report (including the recommendations page of a valid EPC report²⁰), or in a report prepared by a surveyor, and which meet the funding conditions discussed below at paragraph 1.26.²¹

Funding domestic improvements and the 'no cost to landlord' principle

26. As currently framed, the domestic minimum standard regulations rely on the availability of third party funding, available at no cost to the landlord, to meet the costs of making energy efficiency improvements. According to the current minimum standard regulations, installation of improvements will only be required where they can be fully paid for using one or a combination of the following 'financial arrangements':
 - Green Deal finance (see below),
 - supplier obligation funding (ECO funding for example – see below),

²⁰ Landlords are already required to make a valid EPC for a property available at the point at which the property is offered for rent. Therefore the minimum standard regulations would not entail any additional property assessment costs for landlords in this situation. However, a landlord is free to commission a separate energy efficiency surveyor report if they wish, at their own expense.

²¹ For other circumstances in which improvements will be considered "relevant energy efficiency improvements", see regulation 24(1).

- or other third party funding (for example local authority grants) at no cost to the landlord²².
27. Where a property cannot be improved to E at no cost to the landlord, an exemption may be registered which would allow this 'sub-standard' F or G rated property to be lawfully offered for rent (where a valid exemption has *not* been registered, the renting of an F or G rated property would still be prohibited). Landlords of sub-standard property who consider that they would be eligible for an exemption will need to submit details and supporting evidence to the new PRS Exemptions Register.

Exemptions under the existing minimum standard regulations

28. Alongside the 'no cost to the landlord' exemption described above, the minimum standard regulations specify a number of further exemptions to protect landlords of sub-standard property where it is not technically advisable, or financially feasible, to bring those properties up to an EPC E rating. The full list of temporary exemptions allowed for in the existing minimum standard regulations is at Appendix A, and include where:
- the landlord is unable to obtain any consents which are legally required to install the improvements (such as tenant consent, or planning consent),
 - a qualified expert has provided advice that the measure(s) will reduce a property's value by 5% or more, or that a wall insulation measure will damage the property.
29. Where an exemption is registered on the PRS Exemptions Register, this exemption will be valid for a period of five years, apart from where it relates to tenant consent not being given in which case the exemption will expire at the end of the tenancy (or after five years – whichever is soonest). The regulations also provide for a six month exemption in certain situations, including where a landlord has become a new landlord of an F or G rated property by an operation of law. Where an exemption is being registered, evidence to support the exemption will need to be uploaded to demonstrate compliance with the minimum standard regulations.
30. Failure to continue to let a sub-standard property without an exemption having been registered will amount to non-compliance with the minimum standard regulations. This may result in a financial and/or publication penalty being issued. Such penalties can also be imposed if false or misleading information is provided to the Exemptions Register. There is a right to appeal to the First-tier Tribunal under the regulations if a penalty notice is upheld by a local authority following review.

²² For the non-domestic sector, landlords will only be required to install measures which pay for themselves within seven years. Where measures do not meet the seven year payback test, the landlord will be able to claim a five year exemption.

31. The Exemptions Register opened to domestic landlords from October 2017²³. The Register service can be accessed [here](#)²⁴.

Original delivery assumptions for the domestic minimum standard regulations

32. The impact assessment (IA) prepared for the current minimum standard regulations, and published in 2014, estimated that there were approximately 400,000 domestic PRS properties in England and Wales with an EPC rating below E²⁵. The IA further estimated that approximately 73% of these domestic F and G rated private rented properties would be able to meet the E standard within the Green Deal “Golden Rule” threshold (see Green Deal box on following page). A further 10% of properties were estimated as being able to make some improvement to their energy efficiency within the threshold but not reach EPC E. The IA estimated that only 17% could make no improvements within the “Golden Rule” threshold, where the cost of even the cheapest relevant energy efficiency improvement would have been beyond the threshold²⁶.
33. The 2014 IA also assumed that, where Green Deal finance could not fully cover the costs of improvements (for example where the costs exceeded the Green Deal “Golden Rule” – see below), the outstanding costs may be subsidised by supplier obligation funding or local authority grants. It was also assumed that a proportion of improvements could be funded entirely by supplier obligation funding and/or local authority grants without the need to take out a Green Deal finance loan.

²³ The Exemptions Register was initially scheduled to open on 1 October 2016. This was subsequently amended by the *Energy Efficiency (Private Rented Property)(England and Wales)(Amendment) Regulations 2016* (<http://www.legislation.gov.uk/ukxi/2016/660/contents/made>)

²⁴ <http://prsregister.beis.gov.uk/NdsBeisUi/used-service-before>

²⁵ The difference between the 400,000 figure given in the 2014 impact assessment, and the 280,000 figure provided here is accounted for through a combination of more targeted statistical data, property improvements undertaken in the intervening years (including improvements delivered via Government schemes such as ECO), and properties moving out of the PRS market (including properties being left void, and properties being sold into the owner occupier market).

²⁶ The consultation stage impact assessment prepared for this consultation exercise sets out the new estimated improvement rates for the proposed amending minimum standard regulations discussed in chapter two.

Current Finance position - Green Deal Finance and Supplier Obligation Finance

The minimum standard and Green Deal finance

34. As discussed above, Green Deal finance is one of the 'financial arrangements' that can be used for funding improvements under the existing minimum standard regulations. Moreover, it was anticipated that the Green Deal would be the major source of funding for improvements, and the other permitted sources of finance are unlikely to be enough, on their own, to cover the necessary improvements in a majority of cases.
35. Following the Government's decision in July 2015 not to invest further public money in the Green Deal Finance Company, Green Deal finance is now only available through private providers who use the 'pay as you save' mechanism, and may not be universally available to landlords. As noted in the introduction, Government believes that it is now appropriate to consult on amending the minimum standard regulations to gather views on how the Regulations can operate independently of the Green Deal or other policy instruments if necessary.

Box Three

The Green Deal and Pay As You Save Finance

At the time the 2015 minimum standard regulations were finalised, a significant proportion of the energy efficiency improvements required in the domestic sector were expected to be funded at no cost to the landlord via Green Deal finance.

The Green Deal enables households to take out loans to pay for energy efficiency improvements in their homes, with repayments made through their energy bill. Repayments are made on a "Pay As You Save" (PAYS) basis: after the improvement has been made, the household begins to save energy, ensuring their energy bills are less than they would have been without the improvement, and these savings are used to repay the loan.

The finance mechanism includes a principle called the "Golden Rule". This states that the first year's repayments must not exceed the estimated first year saving, and the overall repayment period must not exceed the lifetime of the measures installed.

In the context of the PRS minimum standard regulations, Green Deal finance can satisfy the 'no cost to the landlord' principle where the electricity bills at the rental property (with a Green Deal charge attached) are paid by the tenant rather than the landlord. A tenant in turn, while paying the Green Deal charge for as long as they paid the electricity bill at the property, should have been able to enjoy energy bill savings equal to or greater than the charge.

The framework underpinning the Green Deal, including legislation and regulation, as well as core IT a system was implemented by Government along with partners. To provide initial finance to the framework, the Government and other stakeholders funded the Green Deal Finance Company (GDFC).

In light of lower than anticipated demand for Green Deal finance, Government decided, in 2015, not to provide further funding support to the GDFC. This led to the closure of the GDFC to significant new business at that time, although comparatively low levels of new finance plans did continue to be issued.

In January 2017, GDFC's assets were acquired by a consortium led by Greenstone Finance and Aurium Capital Markets, and the new owners have since introduced a new Green Deal offer to the market. This new finance product has the potential to support delivery of the minimum standard regulations going forward, enabling landlords to cover some or all of the costs of compliance through the PAYS mechanism²⁷.

The Government recently ran a call for evidence seeking views on simplifying the Green Deal framework to make it easier for both businesses and consumers to offer and use Green Deal finance²⁸. Responses to the call for evidence were requested by 23 November 2017, and a Government response will be published in due course.

The minimum standard and supplier obligation funding

36. Alongside Green Deal finance, energy supplier obligation delivers energy efficiency improvements that can help to meet the minimum standards. The current Energy Company Obligation (ECO) will run until September 2018²⁹.
37. Properties in the domestic private rented sector are eligible for energy efficiency measures under the current ECO: Help to Heat scheme, both under the carbon saving obligation (CERO) element and the Affordable Warmth element. Under Affordable Warmth, properties are eligible if they are occupied by households who meet the Affordable Warmth criteria. This includes households in receipt of one of a list of qualifying means-tested benefits (including tax credits or universal credit below an

²⁷ At the time of the sale of the GDFC in January 2017, Jesse Norman, then BEIS Minister for Energy and Industry, said: "People living in more energy efficient homes can have lower bills and warmer homes, while producing fewer carbon emissions, which is why the government has committed to improving the insulation of more than one million homes over this Parliament. This deal [the sale of the GDFC] will help us to reach that goal."

²⁸ www.gov.uk/government/consultations/call-for-evidence-on-the-reform-of-the-green-deal-framework

²⁹ The January 2017 Government response to the ECO consultation can be found at: <https://www.gov.uk/government/consultations/energy-company-obligation-eco-help-to-heat>

income threshold), or if they are identified by the local authority under the new 'flexible eligibility'. The Government will consult on the future ECO scheme (which will run from October 2018 until March 2022 in early 2018).

ECO Flexible Eligibility

38. Under the 'flexible eligibility' element of ECO: Help to Heat, energy suppliers are able to deliver up to 10% of their Affordable Warmth obligation in properties identified by local authorities as fuel poor or low income and vulnerable to the effects of living in a cold home.
39. As part of their enforcement duties under the minimum standards regulations, therefore, local authorities (LAs) have the opportunity to identify private rented properties that could benefit from energy efficiency measures available under ECO, and refer them onto energy companies. This may allow landlords of sub-standard properties that require energy efficiency measures to access supplier obligation support to meet their minimum standards obligations. It is important to note however that a referral by the LA will not guarantee that a measure will be installed, as this will be ultimately the decision of an energy supplier.
40. It is expected that around 21% of supplier obligation measures will be installed in the private rented sector³⁰. The current ECO: Help to Heat obligation focuses on the delivery of measures that have a higher impact on fuel poverty (lofts, cavities solid wall insulation and central heating), whilst the number of gas boiler replacements has been capped at 25,000 a year. The Government will consult on the design of the future ECO (2018 to 2022) scheme in early 2018.

³⁰ Data taken from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/586266/ECO_Transition_Final_Stage_IA_For_Publication_.pdf

Box Four

The Energy Company Obligation

The Energy Company Obligation (ECO) is an obligation that the Government has placed on energy suppliers to reduce the UK's energy consumption and support those living in fuel poverty by requiring energy suppliers to provide households with energy efficiency improvements. Obligated energy suppliers have carbon savings and heating bill savings targets which they are legally required to meet.

Since ECO was launched in January 2013 it has delivered over 2 million improvements (primarily insulation and boilers) to around 1.8 million households in Great Britain, 1 million of which are within the low income and vulnerable elements of the scheme.

The *Clean Growth Strategy*, published in October 2017, announced that Government will extend support for home energy efficiency out to 2028 at least at the current level of ECO funding. The Government will review the best form of support beyond 2022 recognising the need to both save carbon and meet the Government's commitment to upgrade all fuel poor homes to EPC Band C by 2030.

Chapter Three: Consultation proposals and questions

The following chapter discusses the detail of the Government's proposals for using the powers contained in the *Energy Act 2011* to amend Part Three of the *Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015* to ensure that they can operate effectively regardless of the availability of Green Deal finance, Pay As You Save (PAYS) finance, Supplier Obligation funding, and other funding options. The effect of the proposals would be to remove the 'no cost' to landlords principle, and introduce a cost cap – proposed to be set at £2,500 per property – to protect landlords from excessive cost. This chapter also sets out the formal consultation questions.

The Government welcomes responses to the specific questions posed below, but would also welcome wider comments and evidence regarding issues that the proposals raise. In particular the Government would welcome views as to how amended requirements can be clear and simple for both landlords, and enforcement agents.

Objectives of the proposed amendments

41. The published objectives for the existing domestic minimum standard regulations are to:

[D]rive cost-effective energy efficiency improvements in the domestic PRS, which would not have occurred otherwise. These energy efficiency improvements will lead to: fewer greenhouse gas emissions, potential economic growth and employment, lower energy bills for households – including those deepest in fuel poverty, and lower overall energy demand. The policy will also lead to greater energy security, improved

air quality, and improved health outcomes as a result of warmer homes.³¹

42. Meeting these objectives relies on delivering significant volumes of relevant energy efficiency improvements to EPC F and G rated domestic private rented properties in England and Wales. The *Energy Act 2011* (43(4)(b)) and the current minimum standard regulations (regulation 24(3)) provide that an energy efficiency measure will only be a 'relevant energy efficiency improvement' for the purposes of the minimum standard where funding is available to fully cover the cost via one or more of the following financial arrangements:
- I. A Green Deal Finance Plan;
 - II. A Supplier Obligation (imposed by an order made under section 33BC or 33BD of the *Gas Act 1986* or section 41A or 41B of the *Electricity Act 1989*);
 - III. Funding provided by central government or local authority or third party at no cost to the landlord;
or
 - IV. through another financial arrangement (to be set out in the minimum standard regulations).
43. If funding is not available through one or more of these routes to cover the full cost of purchasing and installing a measure (or measures), then the measure will not be a 'relevant energy efficiency improvement' and installation will not be required. In such cases, the property in question is likely to remain sub-standard (i.e. rated at EPC F or G). The existing minimum standard regulations provide that, so long as the landlord registers a valid exemption on the PRS exemptions register, their property can continue to be lawfully rented with that F or G rating.

Capped landlord contribution proposal

44. Due to the uncertainties around the short to medium term funding landscape discussed in chapter two, the Government is proposing to amend the minimum standard regulations to introduce a landlord contribution element where third party funding is unavailable to cover the costs of necessary improvements.
45. To ensure that landlords of F and G rated private rented properties are not faced with an excessive cost burden (where sufficient third party funding cannot be obtained in part or in whole to fund necessary improvements), government is proposing to set an upper cost cap, limiting the amount any landlord would need to see invested to raise a sub-standard property to the minimum standard. This is discussed further at question 2 below.

³¹ Text taken from the published 2014 impact assessment:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/335073/Consultation_Stage_Impact_Assessment_for_the_PRS_Regulations.pdf

46. By adopting this capped landlord contribution approach we would be ensuring that, even where third-party funding is not available to cover the cost of making energy efficiency improvements, landlords may not claim an automatic exemption from the requirement to meet the minimum standard. This will allow the minimum standard regulations to deliver against their original objectives, as set out at para 41 above, while mitigating the cost impact on individual landlords of domestic F and G properties.
47. Under this 'cost cap' scenario, a landlord would still be entirely free to contribute further funding in order to realise the greater benefits from installing additional measures. However there would be no requirement on them to do so. Where a landlord improves the property as far as possible within the cap, they would be deemed to have met their improvement obligations under amended minimum standard regulations, even if that property remained below an E rating. In this case the landlord would be required to register an exemption under existing regulation 25(1)(a) – 'where all relevant energy efficiency improvements for the property have been made and the property remains below E' before issuing a new tenancy agreement, or renewing an existing one.

Consultation Question

1	<p>Do you agree with the policy proposal under consideration here to introduce a landlord contribution element where funding is unavailable to ensure improvements to Band F and G properties can be delivered (unless a valid exemption applies)? This would be subject to a cost cap as discussed at 48-54 below.</p> <p>If you do not agree, what are your objections, and how do you recommend the energy efficiency minimum standard should be achieved, given the current funding climate? Please provide reasons and evidence where available to support your views.</p>
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Setting a cost cap for the domestic minimum standard

48. The Government recognises that there is a balance to be struck between ensuring amended minimum standard regulations deliver improvements to sub-standard domestic properties, and ensuring that landlords of those properties are not required to make improvements which would be disproportionately expensive, or which would not be cost effective.
49. During pre-consultation work, a number of stakeholders have suggested that, where finance from supplier obligation funding, a Green Deal or other PAYS vehicle, or another third party is not available, domestic landlords should be required to install those measures which can pay for themselves within a set period of time, similar to the seven

year payback mechanism which applies to F and G rated non-domestic PRS properties³². An approach of this kind may involve a landlord having to obtain a figure representing the savings a measure, or a package of measures, would achieve in the property over the set period of time, determining the repayment costs for the measures, and then using these figures to calculate whether the proposed measure met or exceeded the payback provision.

50. While such an approach would be possible, other stakeholders argued that it could represent an overly complex or burdensome requirement, particularly for smaller scale landlords. It was also argued that by introducing a system under which notional compliance cost limits would vary from property to property, such an amendment could introduce additional, unnecessary, complexity for enforcement authorities.
51. In order to minimise complexity for landlords (particularly for small scale domestic landlords) and reduce administrative and compliance burdens, the Government's preferred option is to set a simple, consistent cost cap on the value of improvements which a landlord might be expected to make to a property (representing the maximum investment required when landlord contribution is included).
52. As discussed in para 32 in chapter two, the original impact assessment for the existing minimum standard regulations estimated that approximately 73% of sub-standard domestic private rented properties could achieve EPC Band E within the Green Deal's "Golden Rule". While Government appreciates it may not be possible to achieve this specific improvement rate in the short term, it does wish to see a meaningful proportion of the estimated 280,000 sub-standard properties across England and Wales improved. This is to ensure improved energy efficiency standards and lower bills for the residents of those properties, including those in fuel poverty, and to deliver on the wider objectives set for the minimum standard regulations.
53. The Government proposes that, if a cost cap is introduced for the domestic PRS minimum standards, this cap should be set at **£2,500 per property** (this is policy option 2 in the accompanying impact assessment). Our analysis shows that a cap of £2,500 will enable approximately 30% of EPC F and G rated domestic properties in England and Wales to be improved to an E rating – this equates to approximately 85,000 properties. The remaining 70% (approximately 195,000 properties) could be expected to take some action within the cost cap while not achieving a Band E rating.
54. In developing this proposal, the Government has assessed a range of cost cap options to understand the improvement rates they would allow, and the impacts they may have on the wider rental market. Table 3 below shows the percentage of sub-standard properties which our analysis indicates could be improved to E (or above) for an illustrative range of

³² www.gov.uk/government/publications/the-non-domestic-private-rented-property-minimum-standard-landlord-guidance

cap levels. £2,500 was selected as the preferred policy option because, out of the options described below, our analysis suggests that this strikes the right balance between achieving a robust ambition for the policy at a reasonable cost to landlords. Please see section 5.13 of the accompanying impact assessment for a detailed comparative analysis of policy options 1 – 4.

Table 3: Estimated impacts of cap level policy options 1 – 4 (see impact assessment for further analysis and discussion)

Cap Level	% of homes reaching Band E or above	Number of homes improved to E	Number of homes insulated by April 2020 (including those not reaching E)	Average cost of achieving Band E or above	Average cost for properties not reaching Band E*:	Estimated average annual energy savings for tenants
Option 1: £1,000	14%	40,000	129,400	£150	£325	£85
Option 2: £2,500	30%	85,000	139,200	£865	£1,025	£95
Option 3: £3,500	32%	90,000	155,600	£975	£1,430	£109
Option 4: £5,000	42%	120,000	260,400	£1,700	£2,100	£188

* Means average cost for properties which make as much progress as possible towards the minimum standard but are unable to reach E.

55. At this stage in the policy development process we are not proposing that the cap be index linked or adjusted for inflation over time. However this will be kept under review, and an amended cap level may be considered if there are significant changes over time to the capital costs associated with the energy efficiency measures relevant to the minimum standard. A detailed analysis of the impacts and effects of a fixed £2,500 cap (and the other cap options described above) is set out in the accompanying impact assessment and summarised at Appendix B of this consultation document.

Consultation Question	
2a.	<p>Do you agree that a cap on costs for improving sub-standard domestic PRS property should be set at £2,500?</p> <p>If you do not agree, what would be the most appropriate level to set the threshold? Please provide reasons and evidence where available to support your views.</p>

56. As noted above, the Government is carefully considering the wider implications of these proposals and the published consultation stage impact assessment sets out our findings to date. We would welcome views on the consultation impact assessment, and in particular any additional evidence that we should take into account in deciding the way forward. See questions 10a, 10b and 10c below.

Treatment of value added tax (VAT) under a cost cap

57. As noted in chapter two of this consultation document, it is the Government's intention that, where possible and for consistency, amendments to the domestic minimum standard regulations mirror the existing provisions relating to the non-domestic minimum standard simple payback test (regulation 28). One exception to this is the manner in which the Government proposes to treat VAT.
58. The non-domestic minimum standard regulations (regulation 28(6)(a)) state that where a landlord is looking to calculate the cost of installing a measure or measures, they must do so by adding together the cost of purchasing the improvement and the cost of installing it, including labour costs, but excluding VAT. For non-domestic property, landlords can claim capital allowances when they buy energy efficient, or low or zero-carbon technology for their property. This reduces the amount of tax they might pay, and by excluding VAT from the payback calculations, non-domestic landlords will be able to invest greater amounts in energy efficiency, while being able to offset a proportion of the VAT payable against their tax liability.
59. Domestic landlords cannot charge VAT on rent. As they do not charge VAT on renting out their property, they may not reclaim VAT incurred when purchasing materials which enable them to rent that property out. At present, domestic landlords are also unable to claim capital allowances for energy saving measures, meaning that they cannot obtain tax relief for such expenditure. Therefore the Government is proposing to make the domestic cost cap inclusive of VAT; which will be chargeable at either the standard rate (currently 20%), or the reduced rate (5% for some domestic energy efficiency technologies) as appropriate³³. This proposal would make it cheaper for domestic landlords to meet the minimum standards obligations – whereas a cost cap exclusive of VAT would make it between 5% and 20% more costly.
60. The Government recognises that a cost cap inclusive of VAT will reduce the amount of funding which a landlord of domestic sub-standard property will be required to see invested in that property. However it believes that this is fair to landlords and

³³ More information on reduced VAT rate domestic energy-saving materials can be found at: <https://www.gov.uk/guidance/rates-of-vat-on-different-goods-and-services#power-utilities-energy-and-energy-saving-heating> and: <https://www.gov.uk/government/publications/vat-notice-7086-energy-saving-materials/vat-notice-7086-energy-saving-materials>

proportionate in view of the tax position. The Government is interested in hearing views on whether this is the correct approach to take.

Consultation Question	
2b.	Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?

Pre-October 2017 Energy Efficiency Improvements

61. For a proportion of sub-standard privately rented property, the landlord will have installed one or more energy efficiency improvements prior to the exemptions register opening for domestic landlords in October 2017, and the minimum standard coming into force from 1 April 2018. These improvements may have been made via a supplier obligation, with the aid of a local authority or central government grant, at the landlord's own expense, or via some other finance mechanism. In such cases the improvements may have resulted in the property being improved to EPC E or greater. In such cases the property will be compliant with the minimum standard when it bites from April 2018, and the landlord will need to take no further action.
62. However, there may be instances where a landlord has installed energy efficiency measures in a property before the minimum standard regulations bite which, while having a positive impact on the energy efficiency performance of the property, were insufficient to improve it to an E or above (for example, it might have moved the EPC rating from G to F). Where such a rental property remains at F or G after the minimum standard regulations come into force, that property would be sub-standard (as defined by the minimum standard regulations) and would need to be improved to E (or have an exemption registered for it) at the point at which a new tenancy is issued (or an existing tenancy is renewed or extended).
63. In such cases the Government proposes that any previous spend on energy efficiency made prior to a certain date should *not* be taken into account when determining how much a landlord would need to see invested in a property within the cap. In other words, where a landlord had invested in energy efficiency improvements in their property prior to the minimum standard coming into force, and the property remained below E, they should not be able to deduct that prior spend from the amount they would need to see invested in the property in order to improve the property to EPC E. However, to accommodate the exemptions framework, Government proposes that the date from which prior spend *can* be taken into account should be 1 October 2017 (when the domestic exemptions register opened – albeit in pilot form).
64. The Government recognises that, in some cases, this policy proposal may result in a landlord being required to make (and fund) further energy efficiency improvements to their property, having previously invested in other improvements at that same property. In some instances this may result in overall spend greater than the level of the cap. We

would expect this to be comparatively rare however, and given the objective of these proposed amendments – to improve as many sub-standard properties to a minimum of E as is reasonable – the Government views this approach as appropriate.

65. The tables below set out a number of possible scenarios to illustrate this proposal. Table 4 sets out how the proposal would apply where energy efficiency improvements had been made *prior* to October 2017 (please note, all figures in the table are for illustrative purposes only):

Table 4

Pre-Oct 2017 improvements to an F or G rated property	Result of pre-Oct 2017 improvements	Action required post 1 April 2018 (assuming a £2.5k cap)
£2,500 spent on Property.	Property improved to E.	Property already meets the standard. No further action required.
£2,000 spent on Property.	Property improved from G to F. Would require additional £2k spend to improve to E.	Further £2k spend required to improve property to the minimum standard.
£3,000 spent on Property.	Property improved from G to F. Would require additional £3k spend to improve to E.	Further £2.5k spend required (if relevant measures can be identified) even though this will not improve property to E.

Please note that in situations where improvements had been undertaken prior to October 2017 and, as a result, there are no other improvements which can be made that could bring the property closer to an E (within the cap), then the landlord would be entitled to register an exemption as per the current minimum standard regulations.

66. Table 5 sets out a number of scenarios to illustrate the spend requirement where work is done *after* 1 October 2017, but before the minimum standard comes into force from 1 April 2018 (again, please note that all figures in the table are for illustrative purposes only):

Table 5

Post-Oct 2017 improvements to an F or G rated property	Result of post-Oct 2017 improvements	Action required post 1 April 2018 (assuming a £2.5k cap)
£1,500 spent on Property.	Property improved to E.	Property already meets the standard. No further action required.
£2,000 spent on Property.	Property improved from G to F. Would require additional £2k spend to improve to E.	Further £0.5k spend required to improve property – even though this would not improve property to E.
£2,500 spent on Property.	Property improved from G to F. Would require additional £4k spend to improve to E.	No Further spend required– even though property would not be improved to E. Landlord would be eligible for an exemption.

67. While it is the Government's intention to implement this proposal, it is interested to hear views on whether the potential for a landlord to face a cost for improving a sub-standard property to EPC E (or greater) is reasonable where previous investments have been made in the energy efficiency of that property. If you strongly object to this proposal, then we are interested to hear views on how energy efficiency spend incurred before the minimum standard comes into force should be taken into account, how this could be measured, and what the cut-off point for previous spend should be (for example, expenditure within the preceding 12 months, or preceding 18 months?).

Consultation Question	
3.	<p>Do you agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017?</p> <p>If you do not agree, what would be the most appropriate way of taking account of previous spending on measures which have failed to raise a property above EPC F or G? Please provide reasons and evidence where available to support your views.</p>

Third Party Finance - reducing costs to landlords under a cost cap

68. As discussed throughout this document, the Government’s objective for the amendments proposed here is to ensure that the minimum standard regulations work to ensure a meaningful number of sub-standard private rented properties are improved to a minimum EPC rating of E. It is not proposed that landlords of F or G rated properties be required to spend a set amount on improving those properties, nor is it proposed that landlords should invest more than necessary on energy efficiency improvements to reach an EPC rating of E.
69. Government is also mindful of a need to minimise burdens on landlords (accepting that a certain level of burden is inevitable) associated with meeting the minimum standards in order to minimise potential impacts on the rental market and, by extension, on tenants.
70. It is proposed, therefore, that any spend within the cost cap be inclusive of any additional ‘third-party’ finance which a landlord can secure through any of the routes described at 42 above. This means that, where a landlord is able to obtain PAYS finance (including Green Deal finance), supplier obligation support (such as ECO: Help to Heat), a local authority grant, or other third party funding to meet the *full cost* of any measures which will enable their property to reach an E, they may install the relevant improvements using this funding, and will not be required to contribute any additional funding themselves. (In addition, where a landlord can obtain third party grant funding for improvements greater than the value of the cap, they would be expected to make use of all of this funding assuming that this higher value spend is necessary to improve the property to EPC E.)
71. However, where a landlord is able to obtain *partial* funding from *any* of the sources discussed above, the landlord would only be expected to contribute funding of their own sufficient to cover the difference between the ‘no cost’ funding and the overall cost of the improvements being made, up to and including the value of the cap.
72. Therefore, should the Government proposals for a cost cap be taken forward, a landlord of a domestic sub-standard property would only be expected to fully fund measures up to and including a maximum value of the cap, where he or she was unable to secure *any* third party finance to fully, or part fund the relevant improvements (and where *no* improvements could be installed for the value of the cap or less, then the landlord would be eligible for an exemption under the existing exemption provisions).
73. Table 6 below demonstrates this point against a range of cost and funding scenarios, based on an illustrative £2,500 cap:

Table 6

Property requiring £2k of investment to reach EPC E (£2.5k cap)	
Third Party Funding Secured	Landlord Contribution
£2k	£0

£1k	£1k
£0	£2k
Property requiring £2.5k of investment to reach EPC E (£2.5k cap)	
Third Party Funding Secured	Landlord Contribution
£2.5k	£0
£2k	£0.5k
£0k	£2.5k
Property requiring £5k of investment to reach EPC E (£2.5k cap)*	
Third Party Funding Secured	Landlord Contribution
£4k	£0k
£2k	£0.5k
£0k	£2.5k

*Under this scenario, a landlord would only be required to arrange for the installation of those measures which could be funded up to a value of £2.5k. In some cases, there may be no measures which can be installed for £2.5k or less, or only £1k or £2k worth of measures. In all cases, the landlord would be required to install all measures which could be installed for a combined cost of £2.5k or less, even though the property would not rise above F or G. The landlord would then be expected to claim an exemption to the prohibition on renting sub-standard property on the basis that they had installed all viable measures, but the property remains below E.

74. To reiterate, the Government’s objective for the amendments proposed in this paper is to ensure that the minimum standard regulations work to enable a meaningful number of sub-standard private rented properties to be improved to a minimum EPC rating of E. It is not proposed that landlords of F or G rated properties be required to spend a set amount on improving those properties, nor is it proposed that landlords should see more spent on energy efficiency improvements than is necessary to reach an EPC rating of E. This proposal to cap the overall amount of investment required, where a landlord makes a contribution, and thereby limiting what landlords may need to contribute, seeks to mitigate the overall burdens of the proposal, and maintain fairness.

Consultation Question	
4.	Do you agree with the proposal that where a landlord contributes to the improvement, the cost cap threshold should be inclusive of any funding which can be obtained through a ‘no cost’ finance plan (including a Green Deal finance plan), Supplier Obligation Funding (for example, ECO: Help to Heat or a

	<p>successor scheme), or energy efficiency grant funding from a Local Authority or other third parties?</p> <p>If you do not agree, please provide reasons and evidence where available to support your views.</p>
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Identifying supplier obligation spend

75. Where a landlord is offered supplier obligation funding, there may be instances where this funding is sufficient to improve a sub-standard property to EPC Band E without the need for further funding from the landlord (or from any other source). However, in other cases, obligation funding may only partially fund relevant measures, or may fully cover the cost of a measure, or set of measures, which are not in themselves, sufficient to raise the EPC of the property to E.
76. In such cases, it will be important that the landlord knows the market value of the funding offered by the relevant energy supplier (or their agent) in order to determine the value of any landlord contribution which should be made, and to determine whether further improvements can be made within the cap limit.
77. Traditionally, supplier obligation funding has been delivered through national or local energy efficiency installer companies. In many instances the property owner (in this case the landlord) or occupier who has benefited from obligation funding will have been unaware of the level of supplier obligation funding made available for their property. In many cases they may not even be aware of which obligated energy supplier has provided the funding.
78. The Government does not intend to introduce a legal requirement for energy suppliers, nor those delivering energy efficiency improvements on their behalf, to automatically provide landlords with information on the cost value of any energy efficiency improvements made to their rental property as part of a supplier obligation scheme. However, the Government does expect that suppliers, or their agent, will be able to provide landlords with appropriate cost information, when asked, and will encourage suppliers to provide this data in a consistent form to assist with PRS compliance and enforcement activities. The Government is interested to hear views as to whether this non-regulatory expectation is sufficient.

Consultation Question	
5.	Do you agree that it is not necessary to place a regulatory duty on energy suppliers, or their agents, to provide landlords with cost information relating to the value of energy efficiency improvements made to the landlord's property through a supplier obligation?

Demonstrating an exemption where a sub-standard property cannot be improved to E within the cap

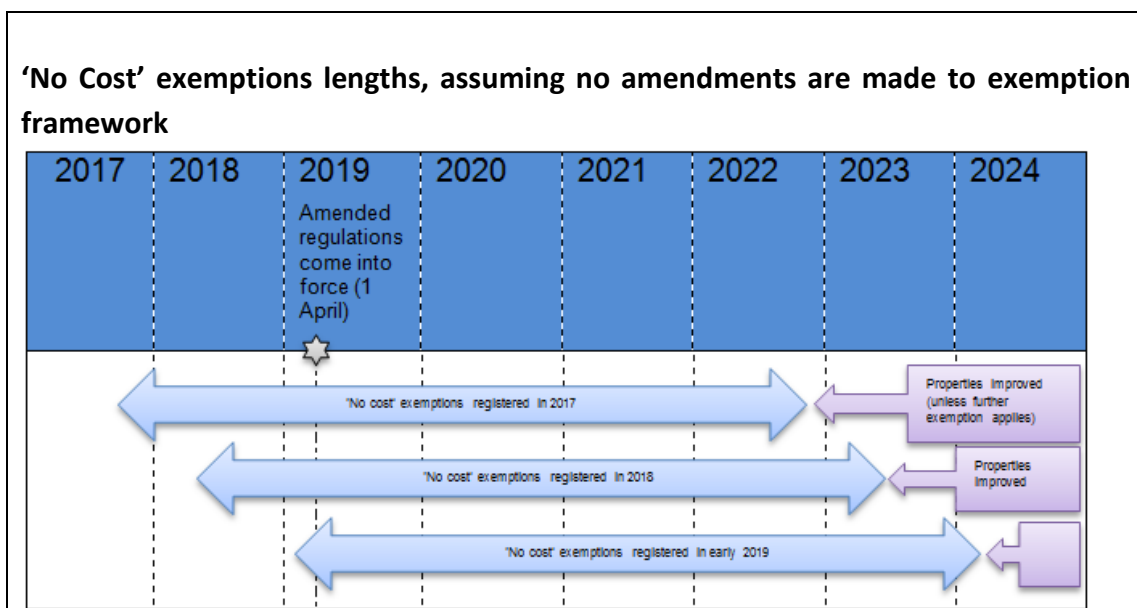
79. As noted in the introduction, the Government intends that the amendments proposed in this consultation document will introduce no new categories of exemption. However, the proposed introduction of a cost-cap does create new scenarios through which an existing exemption may be sought, and for which new evidence requirements should be set out.
80. Where a landlord has been unable to improve a sub-standard property to an E rating, either because they have installed all measures which could be paid for within the cost-cap (and the property remains below an E), or because there are no measures which can be funded within the cap limit, then one of the existing regulation 25(1)(a) or 25(1)(b) exemptions are likely to apply.
81. Where a landlord would be intending to register an exemption under regulation 25(1)(b) (where there are no relevant energy efficiency improvements that can be made to the property) on the grounds that the cost of purchasing and installing a relevant energy efficiency improvement for the property would exceed the cap limit, the Government believes that clear evidence should be required to demonstrate this. The Government proposes that, in order to register such an exemption, the landlord should be required to provide copies of three quotations for the cost of purchasing and installing the improvement from installers of that improvement who meet the relevant installer standards, each showing that the costs exceed the cap.
82. This proposal mirrors a similar requirement established in the non-domestic provisions whereby non-domestic landlords registering a 'high cost' exemption under regulation 28(3) (where a measure is not a "relevant energy efficiency improvement" because it does not meet the non-domestic seven year payback test) are required to provide copies of three quotations for the cost of purchase and installation of the relevant measure.
83. This proposal would introduce an additional burden for those domestic landlords who are intending to rely on a 'high cost' exemption. However, it would reduce the instances through which landlords would be able to register (wittingly or unwittingly) a false 'high cost' exemption, or register an exemption without fully investigating the market costs of making the improvements.
84. In any case, it is anticipated that landlords of F or G properties who would be required to act under amended minimum standard regulations would wish to seek quotes from multiple installers in order to identify best value for money and get the best price. Therefore, Government believes that a requirement to provide three quotes when registering a high cost exemption is proportionate and sensible.

Consultation Question	
6.	<p>Where a landlord is intending to register a ‘high cost’ exemption, should the landlord be required to provide three quotes for the cost of purchasing and installing the measures, in line with the non-domestic minimum standards?</p> <p>If you do not agree, please provide reasons and evidence where available to support your views.</p>

Curtailment of existing ‘no cost’ exemptions

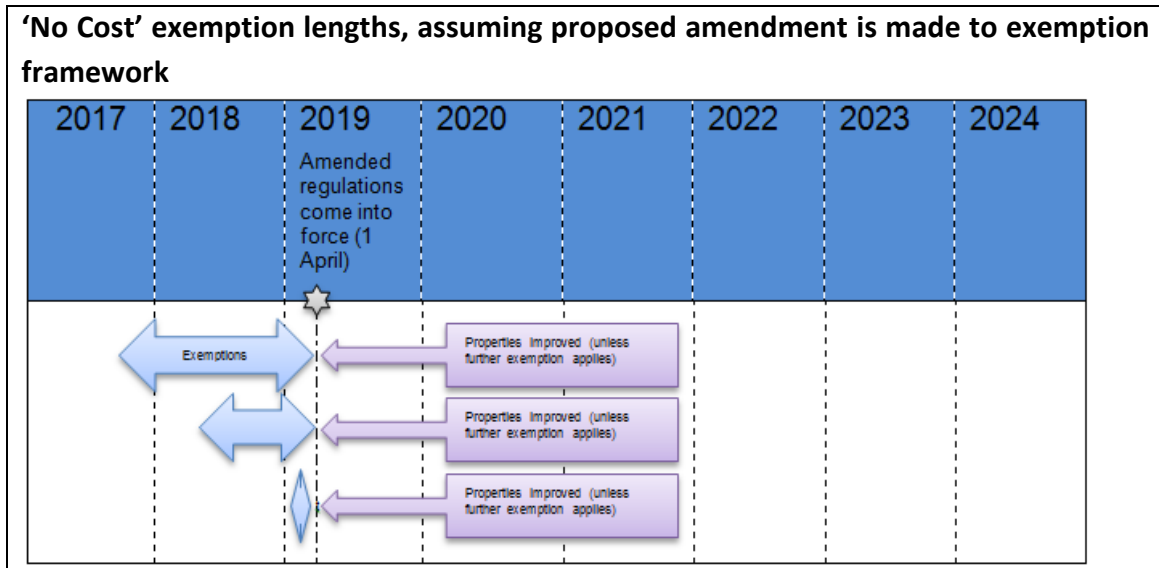
- 85. As outlined in chapter two, the existing minimum standard regulations provide an exemption where a recommended measure is not a “relevant energy efficiency improvement” because the cost of purchasing and installing it cannot be wholly financed at no cost to the landlord (Regulation 25 (1) (b)). Under the existing regulations, such an exemption will be valid for five years from the point of registration. This means that, where a landlord has registered such an exemption, and landlords have been able to register exemptions since 1 October 2017, the first exemptions of this type will expire during 2022 or 2023.
- 86. As discussed throughout this paper, the objective of the proposed ‘capped landlord contribution’ amendment is to enable the minimum standard regulations to deliver improvements to properties, even where a landlord cannot access ‘no cost’ funding. If significant numbers of landlords register ‘no cost’ exemptions between now and when any ‘capped landlord contribution’ amendment comes into force (as noted previously, the Government will aim for amending regulations to come into force from April 2019), then many of the benefits of the amendment would be deferred until 2023 at the earliest. Figure one below illustrates.

Figure One



87. Government is therefore seeking views on whether it should take steps to limit the validity of any ‘no cost’ exemptions (Regulation 25(1)(b)) registered between October 2017 and the point at which amended regulations come into force (currently anticipated to be 1 April 2019). The proposal is that any such exemptions would remain valid only until a capped landlord contribution amendment comes into force, and landlords would only be able to rely on such exemptions until that point.
88. This move would protect a proportion of the benefits of the capped landlord contribution amendment. It would mean that a landlord who had previously registered a ‘no cost’ exemption would then need to take steps to improve their F or G property, or properties, from April 2019 in line with the requirements of the amended regulations, or register a new exemption if applicable, rather than simply rely on the previous exemption until 2023 or later. Figure two below illustrates.

Figure two



89. The Government recognises that an amendment of this nature to the exemption framework would represent an additional burden for some landlords, as those who had registered ‘no cost’ exemptions prior to a capped landlord contribution amendment coming into force, would then need to take steps to improve the energy efficiency of their F and G properties several years earlier than originally envisaged (or take steps to register a further exemption if applicable). On balance, however, the Government believes that this would be proportionate, given that it would primarily involve the bringing forward of required improvements, rather than the introduction of a new requirement for work. Such a move would also ensure that the fuller benefits of the ‘capped landlord contribution’ could be realised earlier, to the benefit of tenants.

Consultation Question

- | | |
|----|---|
| 7. | <p>Do you agree with the proposal to limit the validity of any ‘no cost to the landlord’ exemptions (under Regulation 25(1)(b)) registered between October 2017 and the point at which a capped landlord contribution amendment comes into force?</p> <p>If you do not agree, what are your objections, and how do you recommend that the minimum standard regulations be amended to ensure the energy efficiency improvements are delivered to such properties which might otherwise be left unimproved once the amended regulations came into force? Please provide reasons and evidence where available to support your views.</p> |
|----|---|

Exemption where a tenant has refused consent to a Green Deal Plan

90. As discussed in chapter two, the minimum standard regulations provide for a number of exemptions from the prohibition on letting sub-standard property. One of these (Regulation 31(1)(a)(ii)) allows a landlord to register an exemption if their tenant refuses to give the confirmation required for the landlord to enter into a Green Deal Finance Plan. This means that, where a landlord is intending to use Green Deal finance to meet some or all of the costs of improving a property to E, and the tenant (who pays the energy bill) withholds consent to having a green deal charge attached to the electricity bill, the landlord may claim an exemption. The existing minimum standard regulations permit a landlord to claim this exemption even where supplier obligation funding, or other alternative ‘no cost’ finance options are available to the landlord.
91. Under the minimum standard regulations, a consent exemption of this kind would last for a period of five years, or until the tenant who withheld consent ceases to be the tenant, whichever is soonest. After this time, the landlord would be required to try again to improve the energy efficiency of the property to E.
92. As discussed throughout, the objective of the amendments proposed in this consultation is to allow the minimum standard regulations to deliver improvements to properties, even where a landlord cannot access ‘no cost’ funding. For this reason, the Government would welcome views on whether the exemption under Regulation 31(1)(a)(ii) should be retained, or whether it should be removed. If the exemption were removed, it would mean that, where a landlord was intending to use Green Deal finance to cover some or all of the costs of improving a property to E, and where a tenant who is responsible for paying the energy bill at the property withholds consent to a Green Deal charge, the landlord would not be able to claim an automatic exemption. The landlord would therefore be required to explore other finance options for making the improvements. These options could include supplier obligation funding, any grant funding which may be available, or (by virtue of the proposed amendments set out in this consultation document) self-funding.

93. If the exemption is retained within the minimum standard regulations, a landlord would only be able to rely on it for as long as the tenant who had withheld consent remained in the property on their current tenancy. At the point at which that tenancy comes to an end, the exemption would expire and the landlord would need to take steps to improve the property to E before a new tenancy is signed.

Consultation Question	
8.	Do you have views on whether the consent exemption under Regulation 31(1)(a)(ii) should be removed from the minimum standard regulations or retained? Please provide reasons to support your views.

Miscellaneous questions

Consultation Question	
9.	Do you have any comments on the policy proposals not raised under any of the above questions?

94. The following questions relate to views on the accompanying consultation stage impact assessment. Any answers and supporting material submitted in relation to these questions will be used to help inform the final stage impact assessment which will be prepared to reflect the final policy design.

Consultation Question	
10a.	Do you have any evidence or comments regarding the consultation impact assessment (including views on any of the assumptions we have made to support our analysis), which could inform the final stage impact assessment?

Consultation Question	
10b.	Do you have any evidence or information on the potential for these proposals to impact on the PRS market, including any potential for landlords who are required to act by the minimum standard regulations to pass through costs to tenants after making improvements to their properties?

Consultation Question

10c.	<p>Can you provide any evidence on the likely costs associated with the compilation of evidence in advance of registering an exemption on the PRS Exemptions Register?</p> <p>Details of the evidence a landlord would be required to submit to support an exemption registration are at Appendix A.</p>
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Next Steps

- 95. Having gathered views on the proposals, the Government plans to issue its response and lay amending minimum standard regulations as soon as possible in order to provide as much certainty and clarity to the market on what the regulations will require.

- 96. Further amendments to the scope of the minimum standard regulations are not intended at this time, and the Government is, therefore, not seeking views on other issues related to the policy.

Appendix A

Description of Domestic Landlord Exemptions as set out in the Minimum Standard Regulations

Exemption where all relevant improvements have been made but the property remains below E (under Regulation 25)

A landlord may register an exemption from the prohibition on letting F or G property where they have installed all the relevant energy efficiency measures for their property (or there are none that can be made) and it still does not meet the minimum energy efficiency level of E.

Where a landlord intends to rely on an exemption under Regulation 25, the landlord must register the following information on the PRS Exemptions Register:

- The landlord's name, address, email address and telephone number;
- The address of the property they let;
- Which exemption to the Regulations applies;
- A copy of a valid EPC for the property;
- Details of any energy efficiency improvement recommended for the property in a recommendation report, Green Deal report or a report prepared by a surveyor;
- Details, including date of installation, of any recommended energy efficiency measures that have been installed at the property in compliance with the Regulations;

Registering an exemption where a recommended wall insulation measure would damage the fabric or structure of the building (under Regulation 25)

A landlord may register an exemption where they have obtained written, expert advice that a recommended wall insulation measure (either cavity wall insulation, or external or internal solid wall insulation) required to improve the property would damage the fabric or structure of the building.

Where a landlord intends to rely on this exemption, the landlord must register the following information on the PRS Exemptions Register:

- The landlord's name, address, email address and telephone number;
- The address of the property they let;
- Which exemption to the Regulations applies;
- A copy of a valid EPC for the property;
- Details of any energy efficiency improvement recommended for the property in a recommendation report, Green Deal report or a report prepared by a surveyor;
- Where the property cannot be improved to an EPC E rating because the recommended cavity wall insulation, external wall insulation or internal wall insulation measures may have a negative impact on the building, a copy of the written expert advice stating this.

Registering an exemption where there are no relevant improvements because no suitable finance can be obtained (under Regulation 25)

Under the current regulations, a landlord will be able to claim this exemption where they cannot obtain 'no cost' funding to cover the cost of any measure(s) recommended for the property on a recommendations report. (This is the exemption which the Government is currently consulting on removing).

Where a landlord intends to rely on this exemption, they must register the following information on the PRS Exemptions Register:

- The landlord's name, address, email address and telephone number;
- The address of the property they let;
- Which exemption to the Regulations applies;
- A copy of a valid EPC for the property;
- Details of any energy efficiency improvement recommended for the property in a recommendation report, Green Deal report or a report prepared by a surveyor;
- Where any recommended measures included in a Green Deal report, recommendation report or a report prepared by a surveyor have not been installed because no suitable finance is available, evidence to demonstrate this.

Consent exemption (under Regulation 21)

A landlord may register an exemption where, despite reasonable efforts, they cannot obtain any necessary consents to install the required energy efficiency improvements. This may include, for instance, local authority planning consent, consent from a freeholder, or tenant consent.

Where a landlord wishes to rely on a consent exemption, the information required for the PRS Exemptions Register is:

- The landlord's, name, address, email address and telephone number;
- The address of the property they let;
- A copy of a valid EPC for the property;
- Which exemption is being relied on;
- A copy of any correspondence and documents that evidence that consent was required and sought and that this consent was refused or granted subject to a condition that the landlord was not reasonably able to comply with.

Registering a devaluation exemption

A landlord may register an exemption where a qualified expert has provided written advice that the relevant measures will reduce a property's value by 5% or more.

Where a landlord wishes to rely on the devaluation exemption, the information required for the PRS Exemptions Register is:

- The landlord's, name, address, email address and telephone number;
- The address of the property they let;
- Which exemption to the Regulations they are relying on;
- A copy of a valid EPC for the property;
- A copy of the report from an independent expert that provides evidence that the installation of the recommended measures will devalue the property.

Registering an exemption under Regulation 33 (recently becoming a landlord)

Where the landlord has only recently become the landlord of the property (for any of the reasons set out below), they may register a temporary six month exemption.

Where a new landlord intends to rely on this exemption, the information required for the PRS Exemptions Register is:

- Landlord's name, address, email address and telephone number (already captured as part of setting up an account)
- The address of the property they let;
- Which exemption is being relied on;
- A copy of any valid EPC for the property;
- The date on which they became the landlord for the property, or continued to be the landlord for any of the following reasons:
 - the grant of a lease due to a contractual obligation;
 - where the tenant becomes insolvent and you, the landlord, have been the tenant's guarantor;
 - you, the landlord have been a guarantor, or a former tenant, who has excised the right to obtain an overriding lease of a property under section 19 of *the Landlord and Tenant (Covenants) Act 1995*;
 - a new lease has been deemed created by operation of law;
 - a new lease has been granted under Part 2 of the *Landlord and Tenant Act 1954*;
 - a new lease has been granted by a court order, other than under the *Landlord and Tenant Act 1954*.

Appendix B

Summary of Key Impact Assessment Findings

Table 7 below summarises the strengths and weaknesses of four lead cap options considered in the impact assessment - £1,000, £2,500, £3,500 and £5,000. The table sets this material out in relation to the cost-benefit analysis and policy principles set out in the Impact Assessment³⁴. Boxes in red indicate the worst policy option in relation to each criterion, green boxes indicate the best, yellow the second best and orange the third best. The analysis suggests that overall **option 2 strikes the best balance** between having a large and positive net benefit, an average cost of improvement for landlords that is proportionate in relation to average gross rental yield, and while performing relatively strongly against the objectives and principles outlined in the IA. **As a result, option 2 is the preferred policy option.**

Table 7: Analysis of policy options

Policy Option	Net Present Value (£m)	Percentage of F and G-rated PRS homes reaching Band E in 2020	Estimated number of homes improved to E in 2020	Estimated percentage-point change in fuel poor households at Band E in England 2020	Estimated percentage of fuel poor households at living in F or G rated homes at receiving at least a measure	Estimated total value of improvements in tenant health (£m)	Estimated average capital cost to landlords to achieve Band E or above	Estimated average annual energy bill savings experienced by tenants in 2020
1. £1k cap	301	14%	40,000	0.06	11%	77	150	85
2. £2.5k cap	200	30%	85,000	1.13	55%	78	865	95
3. £3.5k cap	159	32%	90,000	1.49	64%	84	975	109
4. £5k cap	127	42%	120,000	1.82	73%	193	1,700	188

• **Policy Option 1** has the highest net present value, but has the poorest fuel poverty improvement of all the options considered. The percentage of F and G rated properties reaching Band E and tenant energy bill savings are also the lowest amongst the policy options, although the average cost of improvements for landlords to achieve Band E is the lowest.

³⁴ Carbon savings have not been added as a criterion as the impacts in Carbon budgets 4 and 5 across the policy options are small.

- **Policy Option 2** has a large and positive net present value, while giving a relatively low (second lowest) average cost of improvements for landlords. It also performs well in terms of tenant energy bill savings, value of health benefits improvement and number of homes improved to Band E by 2020.

- **Policy Option 3** has a lower net present value and higher average cost to landlords, than options 1 and 2. The percentage of F and G rated properties reaching Band E, the improvement in progress towards fuel poverty objectives, health impacts and energy savings are higher than options 1 and 2, however.

- **Policy Option 4** scores the worst in terms of net present value and average cost of improvements for landlords. This option does, however, deliver the highest percentage of F and G rated properties reaching Band E, number of homes insulated, health impacts and tenant energy bill saving.

Measures Mix

Table 8 below outlines the number and type of measures installed as a result of the regulations under Options 1 to 4, and the proportion of F and G-rated PRS properties that are estimated to reach EPC Band E or above as a result of the regulations. The measures installed are net estimates, meaning that measures that would have been installed in the absence of the proposed changes – for example under the Energy Company Obligation or the natural replacement of boilers – have been excluded, so here we only present the measures installed directly as a consequence of the amended Regulations.

Table 8: Estimated number and type of measures installed as a result of the Regulations by April 2020

Type of installation	Policy Option 1:	Policy Option 2:	Policy Option 3:	Policy Option 4:
	Cost cap of £1,000	Cost cap of £2,500	Cost cap of £3,500	Cost cap of £5,000
Loft insulation	30,900	30,400	29,800	63,400
Cavity Wall Insulation	7,700	13,300	13,700	31,300
Solid Wall Insulation	0	0	0	22,600
Floor insulation	23,700	45,000	49,400	76,100
Draught-proofing	67,100	50,500	57,200	54,600

Appendix B

First Time Central Heating	0	0	0	18,800
Electric Storage Heater	0	92,000	90,200	92,300
Heating Controls	52,200	51,000	44,100	38,300
Hot Water Cylinder Insulation	105,900	88,700	81,900	21,100
Hot Water Thermostat	37,000	28,600	25,400	48,800
Low energy lighting	109,300	97,600	96,400	21,300
Double glazing	0	0	5,500	12,400
Solar PV	0	2,200	23,200	38,200
Total	433,800	499,300	516,800	539,200

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