STATUTORY INSTRUMENTS

2015 No. 962

ENERGY CONSERVATION, ENGLAND AND WALES

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

Made - - - - 26th March 2015

Coming into force in accordance with regulation 1(2)

The Secretary of State for Energy and Climate Change makes the following Regulations in exercise of the powers conferred by sections 43(1) and (4), 44, 45(1), (2), (4), (5)(a) and (b) and (d) to (f), and (6)(a) to (c), 46(1) and (4), 47, 48(1), (2), (3)(a), (b) and (d), 49(1) and (4), 50, 51(1) to (3), (4)(a) and (b) and (d) to (f), (5)(a) to (c), and 52(1) of the Energy Act 2011(**1**).

In accordance with section 52(7)(**2**) of the Energy Act 2011 the Secretary of State has consulted with the Welsh Ministers.

In accordance with section 52(4)(b) of the Energy Act 2011 a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

(2) This Part and Part 2 come into force on 1st April 2016, and Part 3 comes into force on 1st October 2016.

General interpretation

2.—(1) In these Regulations—

(**1**) 2011 c.16.

(**2**) Section 52(7) requires the Secretary of State to consult with Welsh Ministers before making regulations under Chapter 2 of Part 1 of the Energy Act 2011 ("the Act") which apply to domestic PR properties situated in Wales.

"the Act" means the Energy Act 2011;

"approved methodology" means the methodology of calculation of the energy performance of buildings, approved by the Secretary of State in accordance with regulation 24(1) of the Building Regulations 2010(**3**);

"building" means a roofed construction having walls, for which energy is used to condition the indoor climate;

"building unit" has the meaning given in regulation 2(1) of the EPB Regulations;

"central government" has the meaning given in regulation 2 of the Energy Efficiency (Eligible Buildings) Regulations 2013, with the modification that the Scottish Ministers and the Northern Ireland departments are not competent authorities(**4**);

"compliance notice" means a notice which complies with regulation 37;

"counter proposal" means a notice which complies with regulation 13;

"domestic PR property"—

(a) has the meaning given in regulation 5 for the purposes of Part 2,

(b) has the meaning given in regulation 19 for the purposes of Part 3;

"energy bill" has the meaning given in regulation 5 of the Framework Regulations;

"energy efficiency improvement", in relation to a property, means—

(a) a measure for improving efficiency in the use of energy in the property, or

(b) where indicated, a measure installed for the purposes of enabling the supply of gas through a service pipe to the property in any case where the property—

(i) is not fuelled by mains gas, and

(ii) is situated within 23 metres from a relevant main of a gas transporter;

"energy performance indicator" has the meaning given in regulation 11 of the EPB Regulations;

"enforcement authority" has the meaning given in regulation 34(1);

"the EPB Regulations" means the Energy Performance of Buildings (England and Wales) Regulations 2012(**5**);

"the Framework Regulations" means the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012(**6**);

"gas" has the meaning given in section 90(1) of the Act;

"gas transporter" has the meaning given in section 7(1) of the Gas Act 1986(**7**);

"green deal installer" means a person authorised to act as a green deal installer in accordance with regulation 8 of the Framework Regulations;

"green deal report" means a report produced pursuant to a qualifying assessment;

(**3**) S.I. 2010/2214, amended by S.I.s 2011/1515, 2012/718, 2012/3119, 2013/10, 2013/747, 2014/110 and 2014/579.
(**4**) S.I. 2013/3220. That is, the Secretary of State in relation to England, the Welsh Ministers in relation to Wales, and non-ministerial departments, and a body or office which is controlled and mainly financed by the Secretary of State or the Welsh Ministers.
(**5**) S.I. 2012/3118, amended by S.I.s 2013/10, 2013/181, 2014/880 and 2014/549.
(**6**) S.I. 2012/2079, amended by S.I.s 2012/3021, 2013/139 and 2013/1881.
(**7**) 1986 c.44. Section 7(1) was substituted by section 5 of the Gas Act 1995 (c.45), and amended by section 76(2) of the Utilities Act 2000 (c.27).

"improvement notice" means a notice served under section 11 or section 12 of the Housing Act 2004(**8**) where—

(a) the time for compliance with the notice has not expired, or

(b) the notice has been appealed, and the appeal has not been determined;

"independent", in relation to a person, means—

(a) where a landlord or a superior landlord is an individual, a person who is not a spouse or civil partner of that landlord or that superior landlord (as the case may be), or

(b) where a landlord or a superior landlord is not an individual, a person who is not, and has not been in the last 12 months—

(i) a director, partner, shareholder or employee of, or other person exercising management control over, that landlord or that superior landlord, or

(ii) a spouse or civil partner of a person falling within paragraph (i);

"L", for the purposes of regulation 37 and Chapters 6 and 7 of Part 3, means a person who is a landlord, or a former landlord;

"landlord"—

(a) has the meaning given in regulation 7(b) for the purposes of Part 2,

(b) has the meaning given in regulation 21(b) for the purposes of Part 3;

"landlord's full response" has the meaning given in regulation 12(1)(c);

"landlord's initial response" has the meaning given in regulation 12(1)(a);

"local authority" means a local authority within the meaning given in section 106 of the Localism Act 2011(**9**);

"mains gas" is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986(**10**);

"market value" has the meaning given in section 272(1) of the Taxation of Chargeable Gains Act 1992;

"minimum level of energy efficiency" has the meaning given in regulation 22(b);

"non-domestic PR property" has the meaning given in regulation 20;

"penalty notice" means a notice which complies with regulation 38;

"property" means a building or a building unit;

"PRS Exemptions Register" means the system established and maintained in accordance with regulation 36(1);

"publication penalty" has the meaning given in regulation 39(1);

"qualifying assessment" has the meaning given in section 3(9) of the Act;

"recommendation report" has the meaning given in regulation 4(1) of the EPB Regulations;

"relevant energy efficiency improvements"—

(a) has the meaning given in regulation 6 for the purposes of Part 2,

(b) has the meaning given in regulation 24 for the purposes of Part 3 in relation to a domestic PR property,

(c) has the meaning given in regulation 28 for the purposes of Part 3 in relation to a non-domestic PR property;

(**8**) 2004 c.34. These are enforcement actions that may be taken by a local housing authority in relation to category 1 hazards and category 2 hazards. Section 11 provides for the service of improvement notices in respect of category 1 hazards, and section 12 provides for the service of improvement notices in respect of category 2 hazards.

(**9**) 2011 c.20.

(**10**) Section 5 was substituted by section 3 of the Gas Act 1995, and sub-section (1)(b) was amended by S.I. 2012/2400.

"relevant main" has the meaning given in section 10(12) of the Gas Act 1986(**11**);

"relevant person" means an independent architect, chartered engineer, chartered building surveyor or chartered architectural technologist, who is registered on any of—

(a) the Royal Institution of Chartered Surveyors' Building Conservation Accreditation register(**12**),

(b) the Architect Accredited in Building Conservation register(**13**),

(c) the Institution of Civil Engineers' and the Institution of Structural Engineers' Conservation Accreditation Register for Engineers(**14**), and

(d) the Chartered Institute of Architectural Technologists' Directory of Accredited Conservationists(**15**);

"responsible person" means—

(a) where the landlord is an individual, that person,

(b) where the landlord is a company within the meaning given in section 1 of the Companies Act 2006(**16**), a director within the meaning of section 250 of that Act, or

(c) in any other case, a person exercising management control in relation to the landlord;

"service pipe" has the meaning given in section 48(1) of the Gas Act 1986(**17**);

"sub-standard" has the meaning given in regulation 22(a);

"superior landlord" has the meaning given in regulation 7(c);

"superior landlord's response" has the meaning given in regulation 11(5);

"surveyor" means a surveyor who is on the Royal Institution of Chartered Surveyors' register of valuers(**18**);

"tenant"—

(a) has the meaning given in regulation 7(a) for the purposes of Part 2,

(b) has the meaning given in regulation 21(a) for the purposes of Part 3;

"tenant's request" means a notice which complies with regulation 8;

"third party consent" means consent, permission or approval which is required before an energy efficiency improvement can be made, including in particular—

(a) the consent of any tenant of the property or, where the property is one of two or more properties comprised in a building, the consent of a tenant or other occupier of any of those properties,

(b) the consent of any person who has a charge over the landlord's, or a superior landlord's, interest in the property,

(c) the consent of any superior landlord,

(**11**) Section 10 was substituted by paragraph 4 of Schedule 3 to the Gas Act 1995, and sub-section (12) was amended by paragraph 2(1) of Schedule 6 to, and section 80(6) of, the Utilities Act 2000.
(**12**) The Royal Institution of Chartered Surveyors' Building Conservation Accreditation Register can be accessed via their website: www.rics.org/uk/join/member-accreditations-list/building-conservation-accreditation/.
(**13**) The Architect Accredited in Building Conservation ("AABC") register can be accessed via the AABC register website: www.aabc-register.co.uk/register.
(**14**) The Institution of Civil Engineers, and the Institution of Structural Engineers' joint Conservation Accreditation Register for Engineers can be accessed via the Institution of Civil Engineers' website: www.ice.org.uk/care/.
(**15**) The Chartered Institute of Architectural Technologists' Directory of Accredited Conservationists can be accessed via their website: www.ciat.org.uk/en/members/conservation-register.cfm.
(**16**) 2006 c.46.
(**17**) The definition of service pipe was inserted by paragraph 54(1)(j) of Schedule 3 to the Gas Act 1995, and amended by paragraph 2(1) of Schedule 6 to the Utilities Act 2000.
(**18**) The Royal Institution of Chartered Surveyors' register of valuers can be accessed via their website: www.rics.org/uk/join/member-accreditations/valuer-registration-scheme-vrs1/.

(d) planning permission, approval or consent required under the Town and Country Planning Act 1990(**19**), and

(e) consent required as a result of the property being listed in accordance with section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990(**20**), or in a conservation area designated in accordance with section 69 of that Act;

"valid", in relation to an energy performance certificate, has the meaning given in regulation 22(c);

"value added tax" has the meaning given in section 1 of the Value Added Tax Act 1994(**21**).

(2) For the purposes of these Regulations, a person meets "relevant installer standards" in relation to a relevant energy efficiency improvement where—

(a) the relevant energy efficiency improvement consists of work of a type described in column 1 of the Table in Schedule 3 to the Building Regulations 2010, and

(b) the person is a person who is described in the corresponding entry in column 2 of that Table in respect of that type of work.

(3) Where two or more persons together are the tenant, the landlord, or the superior landlord, then any reference to the tenant, the landlord, or the superior landlord (as the case may be), except—

(a) in the definitions of "independent" and "responsible person" in paragraph (1), and

(b) in paragraph 1(i)(ii) of the Schedule,

is a reference to all the persons who are the tenant, the landlord, or the superior landlord (as the case may be).

(4) Nothing in these Regulations affects any duty to carry out works to a property (including works to repair or to improve) imposed on a tenant, a landlord, or a superior landlord, by the terms of a tenancy agreement or by any other enactment.

Service of documents

3.—(1) Any notice served under these Regulations must be in writing and may be given by post.

(2) Any such notice may be given—

(a) in the case of a body corporate, to the secretary or clerk of that body,

(b) in the case of a partnership, to any partner or to a person having control or management of the partnership business.

Duty to review

4.—(1) At intervals of no more than 5 years, the Secretary of State must—

(a) carry out a review of the operation and effect of these Regulations,

(b) publish the conclusions of the review in a report.

(2) Any report must in particular—

(a) set out the objectives intended to be achieved by these Regulations,

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(**19**) 1990 c.8.
(**20**) 1990 c.9.
(**21**) 1994 c.23.