Draft Regulations laid before Parliament under section 52(4)(b) of the Energy Act 2011, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. XXXX

ENERGY CONSERVATION, ENGLAND AND WALES

The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by sections 43, 44, 49, 50 and 52(1) of the Energy Act 2011(**1**), makes the following Regulations.

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.

Citation and commencement

1. These Regulations may be cited as the Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2018, and come into force on 1st April 2019.

Amendment of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

2. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015(**3**) are amended as follows.

(**1**) 2011 c.16.
(**2**) Section 52(7) requires the Secretary of State to consult with Welsh Ministers before making domestic energy efficiency regulations under Chapter 2 of Part 1 of the Energy Act 2011 which apply in relation to domestic private rented properties situated in Wales.
(**3**) S.I. 2015/962, amended by S.I. 2016/660.

Amendment of regulation 24 (relevant energy efficiency improvements)

3. In regulation 24(3), in the words before sub-paragraph (a), after "cost", insert "(including value added tax)".

4. In regulation 24(3)(a), after "or any other person,", omit "or".

5. After regulation 24(3)(b), insert—

",

(c) is not more than the cost cap and can be partly financed by the landlord and partly by one or more of the financial arrangements in sub-paragraph (a) and paragraph (b)(i) and (ii) in the definition of "relevant energy efficiency improvements" in section 43(4) of the Act, or

(d) is not more than the cost cap and can be wholly financed by the landlord".

6. After regulation 24(3), insert—

"(4) In paragraph (3) and in the Schedule, "the cost cap" means £3,500 less—

(a) the total sum (including value added tax) spent by the landlord on unregistered energy efficiency improvements made to the property in the period beginning with 1st October 2017 and ending with 31st March 2019, and

(b) the total cost (including value added tax) of unregistered energy efficiency improvements made to the property on or after 1st April 2019.

(5) In paragraph (4), "unregistered energy efficiency improvements" means energy efficiency improvements within paragraph (1) that have not been identified, in an entry on the PRS Exemptions Register, as having been made."

Amendment of regulation 25 (relevant energy efficiency improvements undertaken)

7. In regulation 25(1), for "paragraph (2)" substitute "paragraphs (2) and (3)".

8. In regulation 25(2), for "This" substitute "Subject to paragraph (3), this".

9. After regulation 25(2), insert—

"(3) Where in the period beginning with 1st October 2017 and ending with 31st March 2019 the landlord registered evidence under regulation 36(2) on which the landlord relied to demonstrate that no relevant energy efficiency improvements could be made to the property because no financing of the types mentioned in section 43(4) of the Act and regulation 24(3) was available, this regulation applies for a period starting with the date on which the landlord registered the evidence and ending with 31st March 2020."

Amendment of regulation 31 (consent exemption)

10. In regulation 31(1), for "paragraph (2), regulations 23 and 27 do", substitute "paragraphs (2) and (3), regulation 27 does".

11. After regulation 31(1), insert—

"(1A) Subject to paragraphs (2) and (3), regulation 23 does not apply at any time when the landlord has, within the preceding five years, been unable to increase the energy performance indicator for the property to not less than the minimum level of energy efficiency as a result of—

(a) the tenant refusing consent to any relevant energy efficiency improvement being made, or