

## Energy Performance Certificates and PCC properties

### At a glance

- The Regulations requiring buildings to have a minimum building energy efficiency (EPC) rating of E apply generally to landlords who have granted leases in England and Wales
- PCCs are likely to be subject to the Regulations where:
  - they have granted leases of church halls and other church buildings for a non-worship use
  - they have granted an assured shorthold tenancy of a PCC house
- PCCs should review their property holdings now, to establish whether they have entered into leases, or similar arrangements, which could fall within the Regulations
- If the property needs an EPC certificate, then the PCC should arrange for an EPC to be obtained as soon as possible, and may need to carry out energy efficient improvements to bring the property up to at least an E rating
- The local authority may fine landlords for non-compliance and may also enter details of non-compliance on a public register. Letting the property will also be unlawful
- PCCs should take professional advice before making any improvements, to ensure these have the desired effect of resulting in a higher EPC rating
- PCCs still need to comply with planning and other statutory requirements, and need a faculty for alterations to premises subject to faculty jurisdiction
- The Government has recently consulted on bringing in a phased higher minimum standard EPC rating, rising to C for domestic property lettings and B for non-domestic property lettings and the results of that consultation are awaited

### Dates for compliance with the Regulations – existing lettings

- From 1 April 2020 a landlord of a domestic private rented property must not continue to let the property unless the property has an EPC rating of at least E, until works have been carried out to improve the energy efficiency rating to an E or above – or a valid exemption has been obtained
- From 1 April 2023 a landlord of a non-domestic private rented property must not continue to let the property unless the property has an EPC rating of at least E, until works have been carried out to improve the energy efficiency rating to an E or above – or a valid exemption has been obtained

### Exemptions

- See below regarding exemptions

## In more detail

The Energy Efficiency (Private Rented Property) (England and Wales) (“MEES”) Regulations 2015 require landlords to obtain an Energy Performance Certificate (“EPC”) with a minimum E rating before either marketing premises as available for letting, or granting a new lease.

The Regulations also apply to existing lettings – see above under the heading “Dates for compliance with the Regulations”.

As managing trustees, the PCC (or sometimes the vicar and churchwardens) are required to comply with the Regulations where they apply to PCC buildings.

Buildings used as places of worship and for religious activities do not fall within the Regulations. However, church halls and other PCC buildings may need an EPC if there is another use – for example, if let for use as a nursery, or let to a parish council or other community use as a village hall.

Residential lettings by the PCC are also likely to fall within the Regulations.

Increasing a property’s energy efficiency will reduce emissions. It will also reduce bills to tenants. From a landlord’s perspective, it may increase the property’s market value, as increasingly properties with a higher efficiency rating will be easier to let and sell.

The PCC will need to pay for the cost of carrying out any improvements, unless the cost can be recovered from the tenant.

EPCs are normally valid for 10 years, but if alterations are made to a property, then a new EPC may be needed.

### **What steps should PCCs take now?**

#### Residential lettings

In the case of residential lettings which are managed for the PCC by an agency, the agency should have obtained an EPC certificate with at least an E rating before the property was let. However, you should ask the agency to confirm that the house has a minimum E rating.

If there is an existing residential letting, and the property does not have an EPC, the PCC should arrange to have the property assessed as soon as possible, as the letting may be unlawful if the house does not have a minimum EPC rating.

The Government guidance states that there is a cap of £3,500 (including VAT) on the cost of making energy efficiency improvements to residential property.

Once the Regulations apply, then if a residential property has less than an E rating but falls within an exemption, the PCC may continue to let the property, but must register the exemption, some of which only last for five years, on the PRS Exemptions Register. Exemptions include:

- High cost exemption: you have spent £3,500 but still cannot obtain an E rating
- Some types of insulation are recommended, but would have a negative impact on the property
- The improvements would devalue the property by more than 5%

## Non-domestic lettings

If a PCC church hall, or other church building, is wholly or partly let under a formal lease then that lease is likely to be caught by the Regulations. Such leases could include, for example, a nursery lease, or a lease to a village hall association.

Some leases do not however fall within the Regulations, such as a lease granted for a term of 99 years or more, or (where the tenant has not previously occupied the premises) a very short lease for 6 months. Government guidance is also that a licence is unlikely to be caught by the Regulations.

The PCC should check to see if existing PCC buildings which could fall within the Regulations have an EPC rating of an E or above. If the PCC is not sure whether an EPC is needed for an existing lease or other occupational arrangement, the PCC should take professional advice to establish the position as soon as possible.

Once the Regulations apply, then if a non-domestic property has less than an E rating the PCC may not lawfully continue to let the property, unless the property falls within an exemption. In that case, the PCC may continue to let the property, but must register the exemption, some of which only last for five years, on the PRS Exemptions Register. Exemptions include:

- a building that is officially protected as part of a designated environment or because of their special architectural or historic merit where compliance with certain minimum energy efficiency requirements would unacceptably alter their character or appearance (note that listed buildings, and buildings in conservation areas, are not automatically exempted)
- a building used as a place of worship and for religious activities
- stand-alone buildings with a total useful floor area of less than 50m<sup>2</sup>
- the landlord has made all energy efficiency improvements which can be made and the building is still sub-standard
- a measure which would improve energy efficiency does not meet a seven year payback test (from a measure recommended by a qualified assessor or other person named in the guidance)
- the installation of specific energy efficiency measures would reduce the market value of the property, or the building it forms part of, by more than five per cent

## Penalties for non-compliance

As managing trustees, PCCs are responsible for having a valid EPC for lettings and would need to pay to make the necessary energy improvements to bring let premises up to the minimum rating (currently E, possibly rising to B by 2030). The penalties for non-compliance may include a substantial fine (based on rateable value of the property but a minimum £5,000, and in some circumstances up to £150,000) as well as being recorded in a public register.

## Projected future changes to the Regulations

In 2021, the Government launched a consultation on MEES which proposed the following:

### Non-domestic buildings:

- 1 April 2025 – all privately rented non-domestic buildings that are not exempt must present a valid EPC;

- 1 April 2027 – all privately rented non-domestic buildings must meet a minimum EPC standard of C or have a valid exemption registered;
- 1 April 2028 – landlords of all privately rented non-domestic buildings must check their EPCs to help identify any properties that require further improvements; and
- 1 April 2030 – all privately rented non-domestic buildings must meet a minimum EPC standard of B or have a valid exemption registered.

#### Residential tenancies:

- Minimum EPC rating to be Band C under a phased trajectory for achieving the improvements for new tenancies from 2025 and all tenancies from 2028
- Increasing the maximum investment amount, resulting in an average per property spend of £4,700 under a £10,000 cap
- Introducing a ‘fabric first’ approach to energy performance improvements

The results of the consultation are awaited, but PCCs should assess their buildings now, so that the PCC is ready to comply if the Government does implement the deadlines set out above which are proposed in its 2021 consultation.

#### Government guidance

Government guidance containing more details on how the Regulations apply is available here:

Non-domestic property: <https://www.gov.uk/government/publications/non-domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

Domestic property: <https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

You can check the Government register by reference to property address and postcode to see if a property has an EPC: <https://www.gov.uk/find-energy-certificate>

The Government guidance also includes a link to finding an energy assessor: <https://getting-new-energy-certificate.service.gov.uk/find-an-assessor/type-of-property>

The picture is more complicated for listed buildings and buildings in conservation areas. See guidance at <https://historicengland.org.uk/advice/your-home/saving-energy/energy-performance-regulations/>

Estates Department

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