

Department for Business, Energy & Industrial Strategy – Consultation
Non-domestic Private Rented Sector minimum energy efficiency standards: EPC B implementation
Response from Propertymark
June 2021

Background

1. Propertymark is the leading professional body for estate and letting agents, commercial agents, inventory providers, auctioneers and valuers, comprising nearly 17,500 members. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Questions

Chapter 1

1. Should listed buildings and those in conservation areas which are to be rented out be legally required to have an EPC?

2. Yes, listed buildings and those in conservation areas which are to be rented out should be legally required to have an EPC. We think this for two reasons. Firstly, this would maintain consistency across the property sector with the same information provided for when a building is built, sold or rented. Secondly, EPCs contain information about a property's energy use and typical energy costs as well as recommendations about how to reduce energy use and save money. Consequently, there may be some improvements that can be made to listed buildings and those in conservation areas that will not interfere with their status.

Chapter 2

2. Do you support the Government's proposal to introduce an EPC C interim milestone in 2027? If so, are there any amendments you would make to the proposals? If you disagree with the proposal, please explain why and what your preferred approach would be. Please provide evidence where you can.

3. No, we do not support the UK Government's proposal to introduce an EPC C interim milestone in 2027. We believe that a single backstop date encourages greater flexibility and allows landlords to plan improvements into their tenancy cycles. To this end, we would like to see further clarity on the trajectory for regulations beyond 2030. This is needed to support property owners making long-term investment decisions for existing buildings and developments in the years ahead.

3. Do you support the Government’s proposal to improve the implementation and enforcement of non-domestic MEES by introducing compliance windows? If so, are there any amendments you would make to the proposals? If not, please outline why, stating what your preferred approach would be. Please provide evidence where you can.

4. No, we do not support the UK Government’s proposal to improve the implementation and enforcement of non-domestic MEES by introducing compliance windows. Presenting a valid EPC and adjusting to an EPC improvement rating should happen at the same time. This is important because we do not believe that local authorities have the capacity and desire to actively enforce these rules in the domestic and non-domestic sectors. Additionally, the UK Government must remove the self-certification requirement from the PRS compliance and exemptions database so there is confidence in the system and enforcement is followed up.

4. Do you support the introduction of a six-month exemption for shell and core let properties? If so, are there any amendments you would make to the proposals? If you disagree with the proposal, please explain why and what your preferred approach would be. Please provide evidence where you can.

5. Yes, we support the introduction of a six-month exemption for shell and core let properties.

5. We welcome views on where improvements could support the transition from the current EPC E requirement to the proposed new implementation and enforcement framework.

6. We believe there are two mechanisms that can support the transition from the current EPC E requirement to the proposed new implementation and enforcement framework. Firstly, providing grants and loans to incentivise landlords, owners, and occupants to install energy saving measures and improve the energy performance of buildings. Secondly, the UK Government should investigate aligning business rates with energy performance to incentivise occupiers to look for higher rated premises in return for lower business rates.

Chapter 3

6. Do you agree with the proposals to amend EPC requirements to support non-domestic MEES under the PRS Regulations? If not, please explain why.

7. Yes, we agree with the proposal to require landlords to provide a valid EPC to agents prior to a property being put on the market. Additionally, we agree that a valid EPC should be in place at all times while a property is let and there should be a requirement for post-improvement EPCs.
8. Yes, the UK Government should seek the powers to require property agents and online property platforms to only advertise and let properties compliant with the Regulations. However, we have two observations. Firstly, unlike the residential sector, there are a number of portals that advertise commercial property, which could make the requirements harder to

police. Secondly, there needs to be consistency in the information provided when advertising a property via a portal and/or another online platform.

9. Yes, the UK Government should permit local authorities to use EPC Open Data for some phases of PRS enforcement. In this context, Propertymark has long held the view that where enforcement does take place there needs to be better joined up working between local enforcement agencies. It is our view that within local authorities, planning departments rarely speak to environmental health teams and therefore there have been situations where landlords cannot comply with the requirements of both planning and environmental health. This fundamentally undermines the local enforcement regime.

7. Do you support the introduction of a PRS property compliance and exemptions database to support enforcement of the PRS Regulations under the new EPC B framework? If not, please explain why.

10. Before moving to a PRS property compliance and exemptions database, the UK Government must ensure the existing Exemptions Register is fit for purpose. To this end, the existing Register would work better if the information did not rely entirely on self-certification and self-reported data. There is no acknowledgement or follow up once information is provided to the Register. Furthermore, there is no automated response after the expiry of an exemption.

8. Do you agree with the proposed landlord registration fee for the PRS property compliance and exemptions database? If not, please explain why.

11. We do not agree that the UK Government should set a maximum total registration fee for landlords with a very large portfolio. Local authorities must actively enforce the rules to check compliance. Furthermore, a properly functioning Exemptions Register not based on self-certification is the best way to ensure that landlords know they are compliant with the rules.

9. Do you agree that £5,000 is a suitable maximum limit to set as the penalty for noncompliance with the new framework requirements? If not, please explain why.

12. Yes, we agree that £5,000 is a suitable maximum limit to set as the penalty for noncompliance with the new framework requirements.

10. We welcome views on the clarity of the current PRS Regulations in relation to enforcement of penalties for non-compliance with MEES.

13. To strengthen the enforcement regime further clarity is needed. To this end, it is our view that a penalty for non-compliance should result in the cost of a breach to a minimum of £5,000 fine. This way both the fine and the improvement works act as a greater deterrent against non-compliance.

11. Should the Government allow local authorities to issue a request to landlords and tenants to inspect properties for compliance under the PRS Regulations? If not, please explain why.

14. Yes, we agree with the proposal to enable local authorities to give notice to landlords that they wish to carry out an inspection, requesting permission to do so at an agreed time from landlords and any tenants in situ.

12. Do you agree that all exemptions should be reviewed at the start of each compliance window? If not, please explain why.

15. No, we do not agree that all exemptions should be reviewed at the start of each compliance window. This is overly complicated and considering that landlords receive no notifications from the Exemptions Register and the process relies on self-certification, it will be difficult for owners to comply.

13. Do you support the introduction of a standardised calculator to simplify the requirements for the payback test? If not, please explain why.

16. Yes, we support the introduction of a standardised calculator to simplify the requirements for the payback test.

14. What are your views on whether the three quotes requirement should be kept for certain circumstances, for example where landlords wish to dispute the standardised costs, and how would the requirement work in such circumstances?

17. We believe that the 'three quotes requirement' is over burdensome. If the UK Government decide to retain this requirement for certain circumstances, there are two issues that should be considered. Firstly, implement a process of obtaining one quotation from a wide range of certified suppliers. Secondly, provide detailed guidance on the installation of regulated technologies to improve compliance with the rules.

15. Should the Government seek primary powers to introduce tenant responsibilities duties for MEES compliance under the PRS Regulations for non-domestic properties, and to introduce duties of mutual cooperation for landlord and tenant?

If not, please explain why. If so, what do you think these duties should consist of? Please explain your reasons and give examples.

18. Yes, the UK Government should seek primary powers to introduce tenant responsibilities duties for MEES compliance under the PRS Regulations for non-domestic properties, and to introduce duties of mutual cooperation for landlords and tenants. Any duties should be linked to bringing the property up to statutory responsibilities but with this in mind the UK Government should consider the impact on landlords and tenants in relation to the length and terms of leases as well as dilapidations.

Chapter 4

16. Do you think that smart meters could play a role in supporting landlords to meet Government energy efficiency requirements such as the non-domestic MEES under the PRS Regulations? What are the key benefits/barriers of smart meters playing a role?

19. Yes, we do think that smart meters could play a role in supporting landlords to meet UK Government energy efficiency requirements such as the non-domestic MEES under the PRS Regulations. The key benefit from smart meter installation is that they can send up-to-date information and provide more accurate data to enable businesses to take control of their energy use and in turn lower bills. We believe there are two barriers affecting smart meters ability to playing a role. Firstly, Propertymark members have made us aware of issues with smart-meter installation and functionality. For instance, the networks go down regularly and with a change to energy provider the functionality disappears. For people to have more confidence and improve take up the technology needs to improve and be consistent across all providers. Secondly, whilst the PRS Regulations apply to the owners of buildings, smart meter take-up and use is reliant on the tenant and their interaction with different energy suppliers over the lifetime of the building, unless the landlord is arranging the energy consumption. To this end, the UK Government must focus on ensuring that energy providers contact tenants (and landlords where applicable) directly and encourage them to install a smart meter rather than placing an onus on landlords and agents who, in the vast majority of tenancies, are not directly involved in arranging utilities. We are also aware of issues in multi-use blocks where some of the premises are vacant, but the heating is left on. To reduce energy consumption, the energy suppliers should be doing audits of commercial premises and if bills have not been paid for a quarter or more to make contact with the building owner and/or last known occupier.