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Your Guide to Energy Efficiency in the Private Rental Sector



Introduction

In 2016, two pieces of legislation relating to energy efficiency, came into force:

The Tenant's Energy Efficiency Improvement and Minimum Energy Efficiency Standards (MEES). Both of these have a real impact on private landlords.

All domestic tenants now have the right to request consent for energy efficiency improvements. In addition to this, it is now unlawful to let a domestic property below a certain efficiency standards, with fines imposed on those who do not comply.

Landlords may need to improve their properties but at the very least should commission an Energy Performance Certificate (EPC) to find out where they stand.



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New and Existing Legislation

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Tenants' Energy Efficiency Improvements



From the 1st April 2016 all domestic tenants have the right to request energy efficiency improvements to their properties.

This regulation applies to domestic properties let under longer term assured and regulated tenancies. Your tenant will likely be eligible to request energy efficiency improvements if he or she:

- Pays Rent to you
- Has control over their home
- Does not live in the same building as you
- Moved into the property between 15 January 1989 and 27 February 1997 with no notice given, that they have an assured shorthold tenancy

Can a residential private landlord refuse a tenants request?

If the building is exempt from having an EPC then you are not required to provide consent. Your tenant must also show that the improvements could be installed with no upfront cost to you. Funding schemes are intended to facilitate energy efficiency without the need for upfront costs.

If a tenant considers that the landlord has not complied with the regulations, they can take the case to a First-tier Tribunal General Regulatory Chamber, which will hear and determine applications.

Minimum Energy Efficiency Standards



From April 2018 changes to legislation will make it unlawful to let a residential property with an Energy Performance Certificate (EPC) rating below an 'E'

In an attempt to ensure that all tenants enjoy a right to live in an energy efficient home, the Minimum Energy Efficiency Standard will be phased in over the next five years.

Phase one - from 1st April 2018, private rented properties must achieve an energy efficiency rating of at least an E on their EPC. The regulations will initially only apply upon the granting of a new tenancy to:

- A new tenant
- An existing tenant

Phase two - from 1st April 2020, the regulations will apply to ALL privately rented property which are required to have an EPC.

What does this mean for Landlords?

An EPC is already required to let or market a property legally, but the new laws surrounding Minimum Energy Efficiency Standards means that an EPC with a rating of F or G is not sufficient for compliance. If your property does not meet the minimum standard, then unfortunately you cannot let or market that property within the law. Rent reviews could also be affected as a result of this.

Penalties for non compliance

Financial penalties for non-compliance can be as much as **£5000** in the domestic sector.

Improvement to Tenant Rights



The Deregulation Act 2015 protects tenants against unfair eviction where they have raised a legitimate complaint about the condition of their home. This includes issues about its energy efficiency.

New legislation will also affect your rights to evict a tenant who has a legitimate complaint concerning your energy efficiency compliance. Shorthold tenancies granted on or after 1st October 2015 are subject to new rules brought about by Section 33 of the Deregulation Act.

The rules are designed to prevent 'retaliatory eviction' practices and effectively make it more difficult for you to serve a section 21 eviction notice to tenants where complaints have been raised about the condition of your property. This would include complaints about its energy efficiency.

What does this mean for Landlords?

Before serving a section 21 notice you must demonstrate that you have complied with the relevant legal obligations concerning:

- The condition of the dwelling
- The health and safety of occupiers in the dwelling
- The energy performance of the dwelling
- Gas certification

And

- All the above information has been provided to the tenants.

As such, if you have not provided your tenant with an EPC, you will risk losing the right to issue an eviction notice.

Housing Health and Safety Rating System



The Housing Health and Safety Rating System (HHSRS) employs a risk assessment approach to minimise the risks from hazards to health and safety in dwellings.

Owners are obliged to comply with any terms of improvement notices or prohibition orders. The landlord is responsible for looking after the exterior of the dwelling as well as installations inside the dwelling.

Excess cold

Excess Cold is one such hazard that can threaten the health of an occupant through low indoor temperatures. This hazard in particular is evidenced through poor heating systems, lack of thermal insulation, excess ventilation, and low energy efficiency ratings. Since the introduction of Minimum Energy Efficiency Standards (MEES) some local authorities have been interpreting dwellings with F and G EPC rating as indicators of hazard, however, this should not be automatically assumed.

What enforcement action could occur against Landlords?

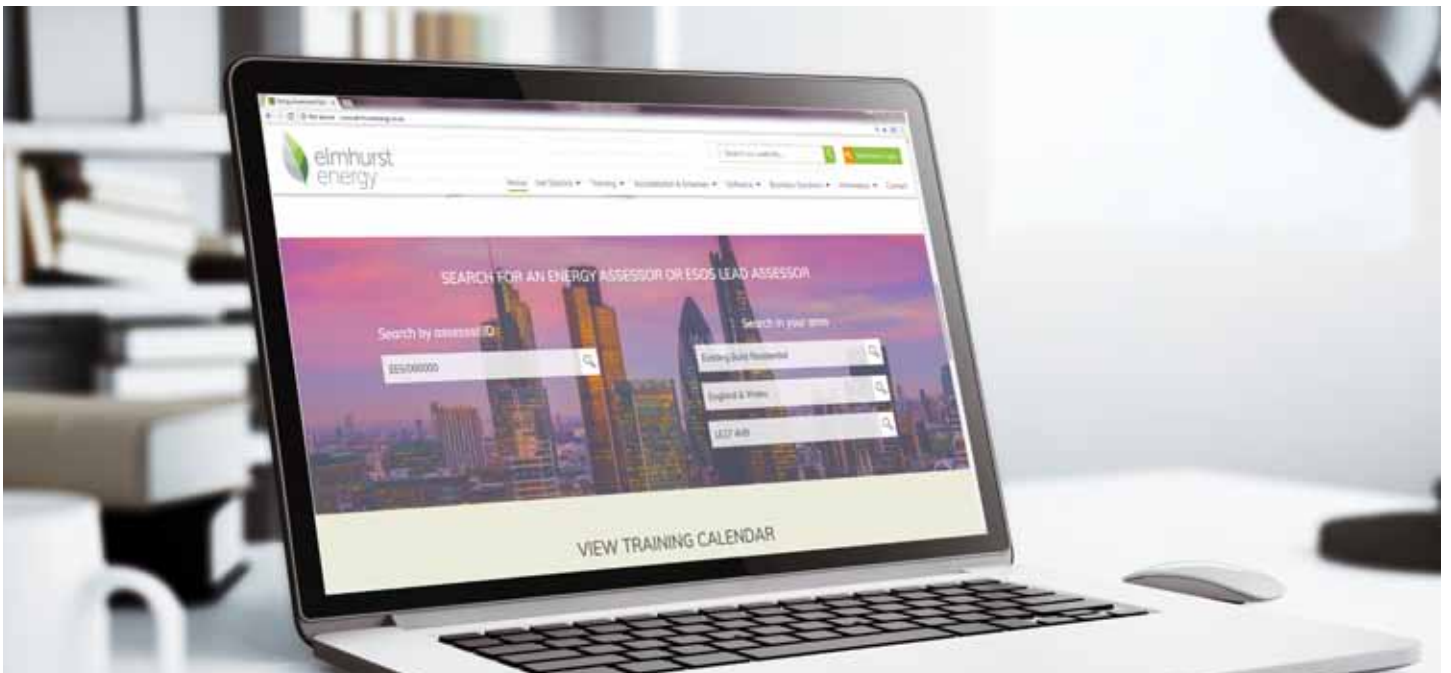
If there are any risks to the health and safety of an occupant, the Environmental Health Officer can enforce corrective measures in the form of improvement notices and prohibition orders. The local authority charges for issuing these notices, and failure to comply with them within the specified time frame is deemed a criminal offence.

Elmhurst's Accredited Energy Assessors



Our trained and accredited energy assessors can assess a property's energy efficiency and produce an EPC either for an individual property or across a landlord's housing portfolio.

To find your local Elmhurst assessor please use our 'Find An Assessor' facility on our webpage www.elmhurstenergy.co.uk



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