

Environmental Health (Private Sector Housing) Regulations Update

March 2018



Developments in housing regulation

- Housing and Planning Act 2016 “Rogue Landlords”
- Mandatory HMO Licensing changes
- Minimum room sizes
- Energy Efficiency Regulations 2015
- Electrical Safety Standards



Housing and Planning Act 2016

- Financial penalties
- Rogue landlords database; London landlord checker – convictions and financial penalties
- Banning Order – if convicted of a relevant offence
- Electrical safety standards may be made statutory



Financial penalties

- Failing to licence an HMO
 - 5 person HMO: £2,000 to £8,000
 - 6/7 person HMO: £10,000 to £17,500
 - 8 or more person HMO: £20,000 to £30,000
- Failing to comply with a condition in an HMO Licence
 - Less serious maintenance defects: £600 to £8,000;
 - Poor maintenance of fire detection, emergency lighting, gas, electricity £10,000 to £17,500;
 - Faulty fire detection, emergency lighting, gas, electricity: £20,000 to £30,000
- Overcrowding an HMO or dwelling:
 - £600 to £17,500 depending on amount and duration
- Breaching HMO Management Regulations
 - Breach of standard regulations: £2,000 to £8,000;
 - Failure to provide safe gas, electricity or water supplies £10,000 to £17,500;
 - Lack of provision of fire safety measures £20,000 to £30,000
- Failing to comply an Improvement Notice
 - £600 to £8,000 depending on seriousness of hazards;
 - £10,000 to £30,000 for the most serious Category 1 hazards

Additional factors to decide level of fine

- Culpability
- History of offences
- Harm to tenants
- Mitigating factors
- Proportionality
- Impact of fine (on the landlord and as a deterrent to others)

Mandatory HMO Licensing October 2018

- All 5 person HMOs regardless of number of storeys
- Purpose built flats where there are up to two flats in the block and one or both are occupied as an HMO



New mandatory HMO licence conditions

- To specify which rooms in an HMO are suitable for sleeping accommodation, and by how many adults and children
- To comply with the provision of facilities for the proper disposal and storage of domestic refuse
- To prescribe the numbers and use of receptacles for the storage and disposal of domestic waste from the HMO.

Minimum room sizes

- Minimum national room sizes for sleeping accommodation in HMOs (first stated in the Housing Act 1985 in the context of Statutory Overcrowding) :
- Separate living room:
 - 6.5 square metres single (70 square feet)
 - 10.2 square metres double (100 square feet)
- No separate living room:
 - 10.2 square metres single
 - 15 square metres double

Energy Efficiency Regulations 2015

- From 2016 landlord cannot unreasonably refuse a tenant's request to make energy efficiency improvements
- From 1st April 2018, landlords will not be allowed to start a new AST tenancy if the EPC rating is below E
- By 1 April 2020 (domestic) or 1 April 2023 (commercial) all AST and Regulated Tenancies must achieve minimum E

Exemptions

- All energy efficiency improvements have been made or there are none that can be made
- Tenant refuses to consent to improvements being made
- Energy efficiency improvements would result in devaluation of the property by more than 5%
- Excluded tenancy, eg not an AST or Regulated Tenancy – company lets; holiday lets; resident landlord

NB Pre-1989 Regulated / Protected Tenancies are in scope

Exemption certificate on application to DCLG who will maintain a register

Breach of regulations

- Compliance notice – requirement to provide information about exemption or attempts to comply
- Financial penalty up to £5,000 for
 - Misleading information £1,000
 - Non compliance with Compliance Notice £2,000
 - Renting non-compliant premises £2,000 to £4,000

Electrical Safety Standards Consultation

- 5 yearly mandatory electrical installation safety checks for all private rented properties
- Mandatory safety certificates confirming installation checks and repairs have been completed provided to both landlord and tenants at the beginning of the tenancy and made available to the local authority on request.
- A PRS electrical testing competent person's scheme to be established to ensure properly trained experts undertake this work.
- Electrical appliance testing by landlords at a change of tenancy should be promoted as good practice
- The consultation runs until Monday 16 April 2018.
- <https://www.gov.uk/government/consultations/electrical-safety-in-the-private-rented-sector>