

# Royal Institute of British Architects

## Department for Business, Energy and Industrial Strategy: The Non-Domestic Private Rented Sector Minimum Energy Efficiency Standards – Implementation of the EPC B Future Target June 2021

The Royal Institute of British Architects is a global professional membership body driving excellence in architecture. We serve our members and society in order to deliver better buildings and places, stronger communities and a sustainable environment. Being inclusive, ethical, environmentally aware and collaborative underpins all that we do.

The RIBA welcomes the opportunity to respond to the non-domestic private rented sector minimum energy efficiency standards – implementation of the EPC B Future Target consultation.

On 29 June 2019 RIBA Council voted to join the global declaration of an environment and climate emergency, two days after the UK Government passed a law to require the UK to end its contribution to global warming by 2050 by bringing all greenhouse gas emissions to net zero.

The climate emergency demands urgent action and leadership by the Government, architects and the wider construction industry. We welcome the direction of travel signified by many of the measures proposed in this consultation. However, we believe that there is a need for greater ambition on behalf of the Government if we are to significantly improve the performance and reduce the environmental impacts of the built environment.

The RIBA recommends that the Government:

- Expand the performance-based policy framework to all non-domestic buildings in the long-term
- Introduce an interim milestone of EPC C in 2027 to ensure improvement works are not left until the last moment
- Ensure that local authorities have the adequate skills and funding to enforce the non-domestic private rented sector minimum energy efficiency standards
- Scrap the seven-year payback test
- Introduce embodied carbon targets to help ensure that the materials used in retrofitting works are not inadvertently damaging the environment

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

Listed buildings are often constructed using materials which do not respond to standard Energy Performance Certificate (EPC) assessments. However, buildings in conservation areas are generally more conventional and therefore easier to assess. Therefore, we believe it would be useful to have EPCs on conservation buildings as it would provide an indication of the energy efficiency of the wider building stock.

However, the RIBA supports the current qualified exemption for listed buildings and those in a conservation area, which states that compliance with certain minimum energy performance requirements should not be undertaken if they would unacceptably alter their character or appearance. Buildings in a conservation area could undertake an EPC and then apply for an exemption on the basis that undertaking energy performance improvements would “unacceptably alter their character or appearance”.

**Question 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.**

Understanding how much actual energy a building uses is crucial to identify where, and which, energy efficiency improvements can be made. Operational energy, or energy measured at the meter, captures the actual energy usage of a building. This should be the primary metric for measuring the energy efficiency of a building.

However, the current energy efficiency tool, the EPC, uses the Simplified Building Energy Model (SBEM), to calculate the energy efficiency of a building. SBEM does not measure operational energy, but instead measures regulated energy. SBEM does not take into account unregulated energy sources, and therefore does not provide an accurate measure of the true energy use of a building. This means that EPCs are often inaccurate and not an effective measure of the energy efficiency of a building.

In addition, EPCs were not intended to be a retrofit design tool. Because EPCs do not measure operational energy, improving the EPC rating of a building does not necessarily achieve meaningful energy reductions.

It is welcome to see that the Government has acknowledged some of the problems with EPCs and consulted on how they could be reformed in 2018. The Government’s response to the consultation, published in September 2020, was a step in the right direction by acknowledging that EPCs must better reflect real world performance.

Despite the problems with EPCs, we are in a climate emergency and we must act now, so it is necessary to utilise the tools we have.

The RIBA agrees with an interim milestone to improve the energy efficiency of the private rented sector (PRS). A single backstop means work could be left until the last possible moment, which can lead to a reduction in quality. Incentives should be given to early adopters of phased milestones.

However, the RIBA believes that all non-domestic buildings should measure operational energy through a performance-based rating system, not just those buildings over 1,000m<sup>2</sup>, as set out in the *Introducing a Performance-Based Policy Framework in large Commercial and Industrial Buildings in England and Wales* consultation. We urge the Government to extend this performance-based policy to all commercial and industrial buildings in the long-term.

**Question 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.**

The RIBA welcomes the introduction of compliance windows. We believe this would provide a clear responsibility for landlords and easier enforcement for local authorities who are severely hampered by funding and capacity constraints.

The RIBA welcomes the suggestion that a valid EPC should always be in place while a property is let. This will ensure that buildings where an EPC has expired and the tenancy is renewed or a tenant is in situ throughout, will not be excluded from energy performance improvements.

**Question 6: Do you agree with the proposals to strengthen enforcement requirements to support non-domestic MEES under the PRS Regulations? If not, please explain why.**

Energy efficiency standards are only effective if they are being enforced properly. This requires a clear enforcement process, with an emphasis on accurate results through professional expertise. This responsibility sits with local authorities in England and Wales. However, with local authorities severely hampered by funding and capacity constraints, we are worried that these are not being enforced properly. The Government ought to ensure that enforcement is fully funded at the local authority level.

This means either providing a central allocation of funding specifically for building enforcement capacity in local councils, or by overseeing a cost-neutral means of enforcing the standards, such as through the charging of non-compliant landlords.

The RIBA supports the Government's suggestion to keep a nationally operated register of compliant and non-compliant households, this would be more efficient to run and easier for landlords with multiple properties to navigate. This should be supplemented by the use of EPC Open Data for PRS enforcement by local authorities.

We agree with the principle of placing a requirement on letting agents and online property platforms to only advertise and let properties compliant with the PRS Regulations, and with proposals to increase the level of financial penalty that local authorities may impose on non-compliant landlords.

The RIBA agrees with the Government's proposal to remove the seven to twenty-one day exemption period on landlords making all reasonable efforts to provide a valid EPC prior to a property being marketed or let. This would result in no circumstances in which a property could be marketed or let without a valid EPC. This will help drive understanding of EPCs and the importance of energy efficiency.

The RIBA believes that a valid EPC should always be in place while a property is let. This will ensure that buildings where an EPC has expired and the tenancy is renewed or a tenant is in situ throughout, will not be excluded from energy performance improvements. In addition, we agree that there should be a requirement for post-improvement EPCs.

**Question 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.**

The RIBA supports the Government's suggestion to keep a nationally operated register of compliant and non-compliant households, this would be more efficient to run and easier for landlords with multiple properties to navigate. This should be supplemented by the use of EPC Open Data for PRS enforcement by local authorities.

**Question 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.**

The RIBA agrees that the Government should allow local authorities to issue a request to landlords and tenants to inspect properties for compliance under the PRS Regulations.

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

The RIBA agrees that all exemptions should be reviewed at the start of each compliance window. We are in a climate emergency and must improve as many buildings as possible to ensure we reach net zero. Ensuring that as many buildings are in scope by reviewing exemptions frequently is key to achieving this.

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

The seven-year payback test is not fit for purpose. It prioritises short term economics of the building owner over long-term climate change mitigation strategies.

The RIBA recognises that there may be some properties which are difficult to treat or would be incredibly expensive to do so. This is especially true when you consider that the EPC B requirement will see the proportion of the non-domestic rented stock within scope of the PRS Regulations increase from around 10% to around 85%. However, we need as many of these buildings to improve their energy efficiency if we are to reach to net zero.

The consultation highlights that increasing the minimum energy efficiency standards (MEES) to EPC B by 2030 is ambitious and a stretching target. It also notes that under the EPC B requirement, with the seven-year payback test for a package of measures, only around 35,000 heat pumps will be installed over the period up to 2030, as the majority of the energy used in buildings is used for heating,

For these reasons, the RIBA recommends the Government's scrap the seven-year payback test.

The sharing of standardised purchase and installation costs of energy efficiency measures for landlords to make informed decisions could be useful in a revised system. However, any advice given through a standardised calculator must ensure that a building reduces its carbon emissions. This means it must consider fabric first and a whole building retrofit approach. We are concerned that such a system could create a piecemeal approach to retrofitting where landlords are installing the highest number of measures for the lowest price without considering the impact on the total carbon emissions from the building. We must ensure all retrofitting works make the building more energy efficient and reduce the carbon impact of the built environment.

Finally, the importance of embodied carbon in retrofitting works has not been considered in the consultation. Embodied carbon refers to the carbon emitted from the processes associated with sourcing materials, fabricating them into products and systems, transporting them to site and assembling them

into a building. It also includes the emissions due to maintenance, repair and replacement, as well as final demolition and disposal.

There is a risk that landlords may prioritise low-cost retrofitting solutions which may result in choosing readily available products with high levels of embodied carbon. The Government should introduce embodied carbon targets to help ensure that the materials used are not inadvertently damaging the environment. Embodied carbon is critical when considering the carbon emitted from a building as a whole.

Considering embodied carbon will also increase the demand for low carbon materials. This will help stimulate growth in low-emission manufacturing of traditional materials, promote new low carbon products and will also encourage the use of local materials, driving the built environment to source products from the UK, where possible.

**Question 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.**

The RIBA welcomes the Government's suggestion 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.