



United Kingdom - Legal Framework

When considering an energy efficiency retrofit within your national housing market, a wide plethora of consideration needs to be made. Below, we list key findings to facilitate your analysis of the retrofit investment. More details and backgrounds can be found on the website www.rentalcal.eu.

The analysis of rent regulations and modernisation cost recovery in the UK show:

- Rents and their future uplifts should be included in the initial tenancy agreement – they can be freely negotiated between the landlord and the tenant but must be fair and in line with average local rents (this is also affected by the type of tenancy).
- Rent increases are affected by the type of tenancy: for a periodic tenancy, rents cannot be increased by the landlord more often than once a year without the agreement of the tenant. Fixed-term tenancies allow the landlord to increase the rent after the fixed term has ended.
- Indexation (usually with CPI) is also possible and used in contracts.
- No particular mechanism of “price reduction because of a defect of the thing” is in place. Compensation can be sought via a civil court if landlord fails to fulfil his/her duties in regard to the tenancy agreement.
- From April 2006, landlords of private residential properties cannot unreasonably refuse energy efficiency improvements, when subsidies and Green Deal Finance are available. Tenants can, from this date, request from the landlord to make the property more comfortable and cheaper to heat, from which the landlord cannot unreasonably refuse.
- A minimum energy efficiency rating of E (EPC) needs to be insured by landlords by no later than April 2018 and have these improvements installed before granting tenancies.
- The local authority may also issue a penalty charge notice in writing to the landlord ranging between fees of £1000 to £5000, depending on the day on which the tenancy begun in non-compliance with the regulations specified.
- The landlord has the right to increase rent after significant refurbishments has been made to the rented property. This however, is also subjected to the initial tenancy agreement.

The analysis of taxation and depreciation rules in the UK show:

- If the landlord is a private individual, personal income tax rules apply on income that exceeds the UK personal tax allowance. Tax rates are progressive and depend on the whole taxable income.
- If the landlord forms a corporation, rental income is subject to a single corporation tax which is (aside from few exceptions) 20% of the net revenues. It is set to decrease to 19% and 18% on 1 April 2017 and 1 April 2020 respectively.
- The tax base for Capital Gains Tax is calculated as the selling price minus the acquisition cost. Deductions include any costs/fees associated with ‘estate agents’ or solicitors’ fees; cost of improvement works on the property (normal maintenance e.g. decorating does not count). The rate varies from 10% to 20% (for individuals) subject to the total taxable income of the taxpayer (18% and 28% tax rates for individuals for residential property and carried interest).
- In the UK, HMRC do not recognise depreciation as an expense deduction in the calculation of business tax; rather, HMRC makes use of Tax Allowances, which is expense deductions.
- Buildings themselves do not qualify for capital allowances, but usually contain plant and machinery that do qualify. There are two rates: the main rate of 18% and the “pool” rate of 8%. To qualify for the special “pool” rate, the assets need to be classified as “integral features” and expenditure must only have been incurred on or after 1 April 2008. Integral features include: electrical systems, space of water heating system, air cooling/purification, etc.
- Enhanced Capital Allowances (ECA) of 100% is available for certain designated energy-saving and environmental friendly plant and machinery. In this regard, the following categories apply: air-to-air energy recovery, boiler equipment, combined heat and power, heating ventilation and air conditioning equipment, lighting, solar thermal systems, etc.

The analysis of building requirements in the UK show:

- A range of legislative instruments exist to promote energy efficiency investments in the building sector. This includes:
- The Landlord and Tenant Act (1985) captures the ultimate minimum standards of tenants’ legal rights, their responsibilities and information on residential service charges. The evolution in regulatory policy in the UK now supports tenants that request energy improvements to their (leased) property, from which landlords can no longer unreasonably refuse.
- The Sustainable and Secure Buildings Act (2004) is mainly concerned with reporting the progression towards sustainable building stock in England.
- The Climate Change and Sustainable Energy Act (2006) aims to increase the number of heat and microgeneration installations across the UK.
- The Climate Change Act (2008) introduces a framework for the reduction of carbon emissions through termed “a credible emissions reduction path”.
- The CRC Energy Efficiency Scheme Order (2010) requires large energy users to monitor and report on their energy consumption.
- The Energy Act (2011) supports the take-up of energy efficiency improvements in both the domestic and non-domestic private rental sector. Landlords are not able to unreasonably refuse a request by tenants to undergo energy efficiency retrofits in the let property when financial support is available.
- The UK National Energy Efficiency Action Plan (NEEAP) puts in places numerous schemes to combat climate change, such as the Green Deal, and Energy Performance Certificates (EPCs).
- The Code of Sustainable Homes promotes higher standards of sustainability in home design above the minimum standard measure imposed by the existing building regulation.
- The Energy Performance of Buildings (England and Wales) Regulations (2012) is focused on increasing the transparency of energy efficiency of buildings via energy ratings and recommendations for improvement. It requires obligatory EPCs when newly constructed, let or sold. In addition, all air-conditioning systems over 12kW are due for inspection and subjected to an Air-Conditioning Inspection Report (ACIR).