

Be Prepared For MEES - Minimum Energy Efficiency Standards

On 26 March 2015, The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 were introduced, bringing into force the **Minimum Energy Efficiency Standards (MEES)**. Landlords holding properties with an EPC rating of less than "E" will need to carry out works to improve the energy performance of their buildings to a rating of "E" or above or face civil penalties.

What is happening and when?

March 2015 MEES Regulations introduced.

April 2016 Tenants' right to request energy efficiency improvements in the domestic sector.

April 1st 2017 PRS Exemptions Register becomes available for commercial landlords and October for residential.

April 2018 It will be unlawful to grant new leases (or renew tenant leases) of residential or commercial property with an EPC rating of less than "E" unless registered as an exemption.

April 2020 Regulation extended to apply to ALL residential lettings (both new AND existing).

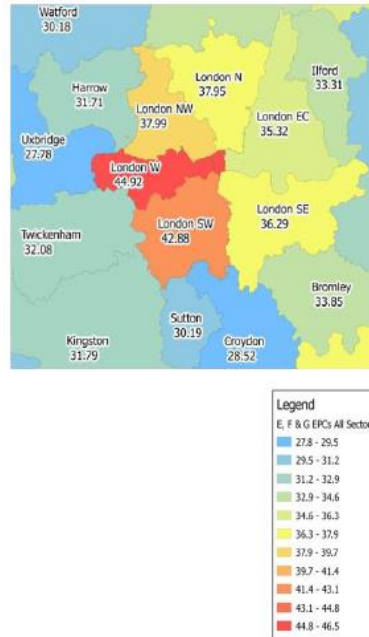
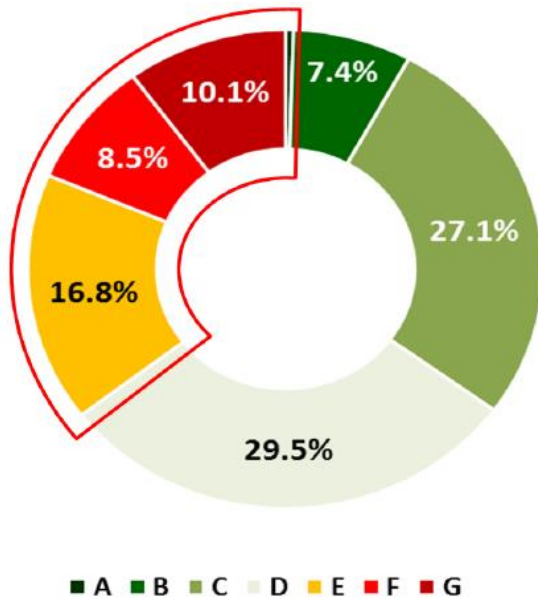
April 2023 – MEES will apply to ALL existing commercial leases.
All PRS properties will need to meet the minimum standard, or be registered as an exemption.

2025 Properties will need to be brought up to an energy efficiency of D or above.

2030 Minimum target of all rental properties to be at least a C energy efficiency rating.

18% of non-domestic property is currently an F/G rating (Source: Department of Energy & Climate Change)

Properties with E, F or G EPC ratings in the UK and London



Is your property exempt?

The regulations **do not capture all F and G rated properties**. Exemptions have yet to be finalised. Current exemptions include:

- Properties not required to have an EPC under the Energy Performance of Buildings Regulations 2012. Listed buildings do not need to comply with MEES if they do not hold an existing certificate.
- Properties with a short lease (less than 6 months) or with a long lease (greater than 99 years).

Exemptions also arise when:

- All cost effective improvements works that have a simple payback period of seven years have been undertaken. These works include replacing inefficient mechanical and electrical services installations, fabric improvements and the provision of renewable technologies.
- A landlord is unable to obtain third party consent, for example from the planning authority, lender, superior landlords, sitting tenant etc.
- An independent surveyor determines that the energy efficiency improvements would devalue the property by more than 5% (such as providing thermal insulation to the internal face of external walls).

If a sub-standard property is sold, the new owner/landlord has only 6 months to comply with the regulations; an important due diligence consideration for prospective purchasers and occupiers.

Exemptions last for 5 years and to qualify for an exemption a landlord must register the property on the Private Rented Sector [PRS] Exemptions Register and state the reasons.

Avoid penalties and damage to your reputation

- Penalties for non-compliance will range from £2,000 to £150,000 based on the rateable value of property.
- Penalties also apply where a landlord has registered false or misleading information on the PRS Exemptions Register.
- Names of landlords in breach of the regulations will be published on the PRS Exemptions Register which may cause damage to reputations.

Enforcement, Penalties & Appeals

- Trading Standards Officers (TSO) to enforce the provisions, with powers to impose civil penalties, set in reference to building's rateable value

| Infringement | Penalty (less than three months in breach) | Penalty (three months in breach or greater) |
|---|---|---|
| Renting out a non-compliant property | 10% of rateable value, but with a minimum penalty of £5,000 and a maximum penalty of £50,000 Publication of non-compliance | 20% of rateable value, but with a minimum penalty of £10,000 and a maximum penalty of £150,000 Publication of non-compliance |
| Providing false or misleading information, or failed to comply with a compliance notice | £5,000 Publication of non-compliance | |

Advice to Landlords - Plan ahead

Although the regulations do not come into force immediately, it is beneficial for landlords to begin carrying out assessments of their portfolios early. This will enable them to see which properties are likely to fall below the minimum rating and investigate the necessary improvements to raise the energy efficiency of those buildings, or consider whether an **exemption** will apply.

Over time the acceptable energy standard is likely to rise above the current minimum of "E". Timings on this are unclear but the Secretary of State will review the position every five years. With this in mind, we recommend landlords also consider the long-term potential cost-efficiency of developing a programme of improvement works for properties with ratings C, D and E.

We suggest the following process and would be happy to work with you to implement this:

1. Assess the risk

Identify your properties currently with an E, F or G rating.

Ensure your existing EPCs are accurate and carry out new EPCs where required. Pay close attention to those created shortly after EPCs were introduced in 2008 and those where the rating was calculated using default settings.

Determine which, if any, of your properties may be exempt and ensure that these are listed on the PRS Exemptions Register.

2. Plan cost-effective improvement works

Develop a plan of the work required, including the necessary consents required.

Consider where possible incorporating this into the regular maintenance and refurbishment of your properties to minimise cost and disruption.

Quite often a rating can be improved as part of usual replacement works at little or no additional cost. In fact, in our experience simply re-modelling a property using accurate data can improve the rating without the need for works.

Investigate funding options available.

3. Collaborate with your tenants

Leases do not usually include provision to carry out energy efficiency works in tenanted areas, so maintaining good relationships with your tenants will help make the process run more smoothly.

Discuss your proposals with them well in advance of carrying out works.

Think ahead - For new leases and lease renewals consider including a green lease provision or attaching a memorandum of understanding to the lease to facilitate future works.

Ensure tenants' fit-out proposals will not affect your EPC rating.

Please contact us for more information. We can advise on strategy and implementation for protecting your assets.