

# Guide to Minimum Energy Efficiency Standards





## What's happening?

From early 2018 landlords will not be able to grant a new lease or renew an existing lease on a commercial property with an EPC (Energy Performance Certificate) rating of F or G.

# When is it happening?

This regulation, called MEES (Minimum Energy Efficiency Standards), will apply in stages from 1 April 2018 in England and Wales. It applies:

- to new lets and renewals of tenancies (domestic or non-domestic) from 1 April 2018;
- to all existing tenancies for domestic properties from 1 April 2020; and
- to all existing tenancies for non-domestic properties from 1 April 2023.

# What are the implications and the risks faced?

- The asset value of “sub-standard” F and G properties is likely to be reduced.
- In a typical portfolio at least 30 per cent are likely to be rated between E and G, with circa 20 per cent being F and G rated.
- Properties that have a lease break or renewal before April 2018 and are rated E or lower need addressing, as do those that do not have an EPC at all.

# Are there any exemptions?

The following exemptions apply (and mean that F or G properties can still be let):

- All possible energy-saving improvements have been made.
  - a. where the expected savings exceed or equal the cost (including the cost of finance) of the work;
  - b. that would achieve a payback in seven years or less; or
  - c. that can be wholly financed by other means, but at no cost to the landlord.
- Third party consent is required and has been denied.
- The works would result in a reduction of more than 5 per cent of the market value of the property.

## BUT

- Exemptions last for a maximum of five years.
- A landlord may only rely on an exemption if it is registered on the PRS (Private Rented Sector) Exemptions Register.



# How will it be enforced?

Local authorities are responsible for enforcing this legislation through compliance notices and fines. In some cases landlords may benefit from a six-month grace period to rectify the breach.





# What are the penalties for not complying?

Breach	Financial Penalty
Providing false or misleading information to the PRS Exemptions Register	Up to £5,000
Failing to comply with a compliance notice	Up to £5,000
Renting out a non-compliant commercial property	For non-compliance lasting less than three months - a penalty of 10% of rateable value (minimum £5,000 and a maximum of £50,000)
	For non-compliance lasting three months or more - a penalty of 20% of rateable value (minimum £10,000 and a maximum of £150,000)

# What should a landlord's action plan be?

- 1** Review their properties, their EPC rating and lease event dates.
- 2** Identify any properties that are “at risk”.
- 3** Carry out EPC assessments, making sure they are up to date and accurate.
- 4** Engage tenants – agreeing what modifications need to be made and by whom.
- 5** If upgrades to achieve an E rating cannot be achieved plan an exit strategy.

© 2017 Dentons.

Dentons is a global legal practice providing client services worldwide through its member firms and affiliates. This publication is not designed to provide legal or other advice and you should not take, or refrain from taking, action based on its content. Dentons UKMEA LLP is a limited liability partnership registered in England and Wales under no. OC322045. It is authorised and regulated by the Solicitors Regulation Authority. A list of its members is open for inspection at its registered office: One Fleet Place, London EC4M 7WS. Any reference to a “partner” means a person who is a partner, member, consultant or employee with equivalent standing and qualifications in one of Dentons’ affiliates.

Please see [dentons.com](http://dentons.com) for Legal Notices.

Brand-2837-MEES Brochure — 13/04/2017