

## Minimum Energy Efficiency Standards (MEES) For Non-Domestic Property

### Overview

#### What Is MEES

From April 2018, it will be unlawful to grant a new tenancy to new or existing tenants with an EPC rating of F or G.

This will apply to non-domestic (and domestic) properties throughout England and Wales subject to certain conditions.

From April 2023, the restrictions will be extended to the continued letting of property.

#### Who Is Affected

In addition to private and public sector landlords, stakeholders include tenants, property managers, lenders, developers and investors.

#### High-Level Planning

If not already, building owners are advised to prepare a risk assessment followed by a practical plan for achieving compliance.

### Full Briefing

#### Policy Background

MEES is based on the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, the origins of which lie in the Energy Act 2011. It is also commonly referred to as MEPS (Minimum Energy Performance Standards).

The regulations are designed to support UK Government policy to address the issues of inefficient existing buildings, to reduce wasted energy and to reduce greenhouse gas emissions.

#### Properties Affected

For non-domestic EPCs (Energy Performance Certificates), it has been reported that around 75,000 properties in England & Wales have F or G ratings (around 19%). In addition, around 65,000 properties have E ratings (17%) and these may be at risk of being re-assessed as F or G.

Thus, around 36% of non-domestic properties can be considered as potentially affected by MEES.

This doesn't include properties with D ratings, some of which may also be at risk depending on age and accuracy of the EPC or if the minimum standard changes in the future.

## Scope & Exemptions

All property types are in scope of the regulations except for those specifically excluded from existing EPC obligations, as set out in the EPC regulations.

Leases of less than 6 months (without provision to extend) or more than 99 years are excluded.

Under certain circumstances and where sufficient evidence is provided, applications for exemption are possible for each of the following scenarios :-

- All cost effective improvements with less than a seven year payback have been completed
- Required improvements are deemed to devalue the property, or the building it forms part of, by more than 5%
- Third party consent has been refused (for example, occupants, superior landlords or council planning departments)

Exemption can be sought in certain cases where required improvements in wall insulation are demonstrated to be potentially harmful to the building's fabric or structure.

There are special circumstances where landlords can gain a six month grace period to comply, including certain instances of tenant insolvency or a new lease granted by court order.

## Compliance Authority

The regulations will be enforced by Local Authorities. Penalties for non-compliance are between £5,000 and £150,000. A register of non-compliant landlords will be made publicly available.

## Preparation

In addition to identifying the potential opportunities, landlords will clearly wish to avoid unnecessary costs and protect asset value.

Assessing risk, evaluating options and deciding on a compliance plan requires understanding of the regulations in the context of the portfolio. Before committing to a programme of surveys, it is useful to conduct a desktop assessment to identify :-

- properties known to be in scope
- properties at risk of falling into scope
- where valid EPCs are required
- options to apply for exemptions

It may be prudent to arrange indicative, sample EPC surveys in order to analyse options for optimising final ratings.

Any proposed building efficiency measures can of course be co-ordinated to take advantage of lease renewals, void periods, planned maintenance and refits.

## Further Information

In February 2017, the Department for Business, Energy & Industrial Strategy (BEIS) published [Guidance](#) on the regulations for the non-domestic private rented sector.

GEP Environmental offers a free consultation to answer questions on the detail of the new standards and to help clients consider an appropriate risk management strategy and compliance plan.

Contact Cameron Oliphant at [camerono@gepenv.co.uk](mailto:camerono@gepenv.co.uk) for further information.