

MINIMUM ENERGY EFFICIENCY STANDARDS (MEES)

Protecting Your Assets

The Energy Efficiency (Private Rented Sector) (England and Wales) Regulations 2015 will make it unlawful from April 2018 to let residential or commercial properties with an Energy Performance Certificate (EPC) rating of 'F' or 'G' (i.e. the lowest 2 grades of energy efficiency).

The new regulations will have very significant implications for landlords, and for occupiers who wish to assign or sublet space, as the marketability of some properties would become impossible unless they were upgraded to meet the minimum standards. Landlords need to take action now to avoid penalties and protect the value of their assets.

MEES applies in England and Wales only. In January 2016, the Scottish Government published a draft of the Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016 which will come into force on 1st September 2016. A separate briefing note on the Scottish regulations is available.

REQUIREMENTS

- The minimum energy efficiency standard is set at an EPC rating of 'E'.
- From 1st April 2018, the regulations will be enforced upon the granting of a new lease and the renewal of existing leases. Landlords will be required to ensure compliance before the lease is granted. In special circumstances, landlords will be given an extension of six months from the date of the grant of the lease to comply with the regulations.
- From 1st April 2023, MEES will be extended to cover all leases, including where a lease is already in place.
- All non-domestic property types are in scope of the regulations, except for those that do not require an EPC under current regulations, such as listed buildings.
- MEES does not apply to lettings of 6 months or less, or to lettings of 99 years or more.
- The regulations apply to sublets





EXEMPTIONS

Landlords will be exempt from having to comply with MEES if they can demonstrate one of the following:

- All cost-effective energy efficiency improvements, either within a seven year payback or under the Green Deal's "Golden Rule", have been carried out.
- Consent to undertake works is refused by a third party, such as a Local Authority or an incumbent tenant.
- A suitably qualified expert provides written advice that the improvements would result in a devaluation of the property by 5% or more, or that the works would damage the property.
- Exemptions last for five years and will need to be lodged on a centralised register to be created by the Government.

ENFORCEMENT AND PENALTIES

The regulations will be enforced by Trading Standards Officers. Penalties will be based on the rateable value of the property, up to a maximum of £150,000, per occasion.



IMPLICATIONS

MEES will have significant impacts for landlords, including:

- It will make some properties illegal to market unless they are upgraded to meet the minimum standards. It is estimated that approximately 20% of non-domestic properties are in the 'F' and 'G' rating brackets.
- Valuations of such properties could be affected if their marketability is diminished.
- Rent reviews for properties in this situation could also be affected.
- Implications for dilapidations assessments may also exist.

WHAT CAN YOU DO?

In the first instance, we suggest that if you will be impacted by MEES you should contact us so we can help you to identify the potential risk to your assets.

There is a high likelihood that the minimum energy standards proposed for 2018 will be raised in the future and Government is committed to implementing this policy.

With the implementation of the minimum energy standards legislation less than two years away, time is short to minimise risk. We suggest the following immediate actions:

- All property assets need to have an EPC Assessment.
- Where the EPC rating is 'F' or 'G' (or is at risk of becoming so) an "Energy Efficiency Plan" should be put in place to improve the energy efficiency of the property. This should include assessing the costs and benefits of improving energy efficiency and weighing these against other impacting factors within the business plan for the property.
- Energy efficiency improvements should take advantage of void periods, lease breaks and/or be included as part of the on-going maintenance and renewal programme.

HOW CAN KNIGHT FRANK HELP?

Knight Frank can provide a full compliance service, including:

- Advice upon the legislation and its implications for your assets.
- Assess current energy efficiency and energy performance risk across your portfolio and for individual assets.
- Produce a bespoke risk management plan ("Energy Efficiency Plan") for your buildings to implement any necessary energy efficiency improvements, aligned with the building life cycle.
- The Energy Efficiency Plan will include fully costed investment grade projects for achieving the minimum standards required.
- Negotiate with landlords/tenants regarding the completion of energy efficiency projects, including possible lease re-gearing.
- Procure and manage any necessary improvement works.
- Provide energy performance reports and ratings for statutory compliance and for marketing purposes.



For immediate advice on this risk to your portfolio please contact:

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