

# Minimum Energy Efficiency Standards (MEES)-v 3.0

- Types of dwelling to which MEES apply
- MEES exclusions and exemptions
- Penalties for breaches
- Financing improvements
- Improvement tips for Landlords

## Overview

The regulations apply to certain privately rented dwellings let on a **tenancy** (i.e. not a license) and do not apply to the social housing sector. The MEES regulations were, until 31st March 2019, in force on the basis that improvements made to the thermal efficiency of the dwelling would not incur upfront costs to the landlord. During 2018/19 this part of the legislation was subject to a Government review and the outcome of this means that the



landlord is, from **1st April 2019**, required to contribute towards the cost of energy efficiency measures, subject to a spending cap. Receipts to show that up to £3,500 (inclusive of VAT) must therefore be retained and submitted to prove that this amount has been spent on energy efficiency measures prior to being able to apply for an exemption on grounds of expenditure.

## The Minimum Level of Energy Efficiency

The minimum level of energy efficiency is an Energy Performance Certificate (EPC) rating of **Band E**. Landlords may, of course, aim to achieve a rating higher than this current requirement should they wish. This means that, subject to certain requirements and exemptions:

- With effect from **1st April 2018**, landlords of relevant domestic private rented properties were not legally able to grant a tenancy to new or existing tenant(s) if their property has an EPC rating of Band “F” or “G”;
- From **1st April 2019** if an existing tenants moves out and the existing EPC has an “F” or “G” rating, the landlord cannot legally commence a new tenancy without carrying out measures to improve the energy efficiency of the dwelling, and can no longer lodge an exemption based on the grounds of ‘no upfront costs’.
- From **1st April 2020**, landlords must not continue to let a relevant domestic property which is already let, if that property has an EPC rating of Band “F” or “G”.

Please Note: the above requirements also apply where the property is to be sub-let.

### To which dwellings do the MEES regulations apply?

The minimum standard will apply to any domestic privately rented property which is:

- Legally required to have an EPC; and
- Let on a relevant type of tenancy

Where these two conditions are met the landlord must ensure that the minimum standard of an EPC Band “E” is met or exceeded.



### Circumstances where an EPC may not be required

Guidance issued by DCLG states that an EPC is not required where the landlord can demonstrate the building is any of the following:

- A building used as a place of worship and for religious activities
- A temporary building with a planned time of use of two years or less
- Stand-alone (detached) buildings with a total useful floor area of less than 50m<sup>2</sup>
- HMO's (Houses in Multiple Occupation)- these can be bedsits, hostels, shared houses etc, which have not been sold, or let as a single rental in the previous ten years (note: if an EPC exists for a whole building and it is below band “E” then the landlord will need to achieve the minimum standard in order to issue new tenancies from April 2018)
- Furnished holiday accommodation where the occupancy is via licence and/or the occupant is not responsible for meeting the energy costs
- Buildings due to be demolished



### Voluntary EPCs

Where the owner or occupier of a dwelling which is not legally required to have an EPC has obtained one voluntarily, the landlord will not be required to comply with the MEES regulations until the next MEES ‘trigger point’ is reached (e.g. lease renewal to an existing tenant or grant of a new lease to a new tenant).

## EPC Validity

Once an EPC reaches its ten year expiration date, there is no automatic requirement to renew it until a legal trigger point is reached (e.g. the property is let to a new tenant, is sold or is modified to have more or fewer parts than it originally had). There is also currently no requirement to produce a new EPC after carrying out energy efficiency improvements (although a post-improvements EPC would be the easiest way for a landlord to demonstrate they have complied with the regulations).

## Understanding MEES Trigger Points

Until 1st April 2020, it is a **change** to a tenancy which is the 'trigger' point for MEES compliance. Expiry of an EPC alone does not have any direct impact on a currently tenanted dwelling. It is therefore important to understand the various scenarios which trigger the requirement for a landlord to comply with the MEES regulations.



If a tenancy changes, and the most recent EPC lodged on the Central Register has a rating of "F" or "G", MEES will be triggered and the landlord is required to comply with the regulations. For the purposes of MEES, a tenancy change occurs when:

- The property is let to a new tenant on a new tenancy agreement
- The current tenancy agreement is extended by way of a formal agreement between the landlord and tenant
- The property is re-let to an existing tenant on a new fixed-term tenancy agreement (i.e. the tenant signs a new fixed-term tenancy agreement when the current agreement expires)
- The current tenancy agreement expires but an existing tenant continues to occupy the property without signing a new tenancy agreement (commonly referred to as 'rolling over' or 'holding over'). At this point the original fixed-term tenancy expires and the law automatically grants a new periodic tenancy
- An additional tenant moves into the property, requiring an amendment to the tenancy agreement, or a tenant is removed from an existing tenancy agreement meaning that the tenancy is taken on by the remaining tenant(s)
- The original tenant sub-lets the property to a sub-tenant (in which case it is the responsibility of the original tenant to ensure the property is MEES compliant as they become the 'landlord').

## MEES Exemptions

Under certain circumstances, a landlord may be able to claim exemption from the MEES regulations. In such cases, the exemption must be registered on the **National PRS Exemptions Register** which was launched in October 2017.

Landlords have been able to register exemptions for a property since 1st April 2018.

Exemptions last for **five** years, apart from where it relates to a tenant not giving consent (in which case it is five years or when the tenant vacates the property, whichever is sooner) after which time the landlord must again attempt to improve the energy efficiency of the property to a minimum of an EPC Band E. If this is not achievable after spending £3,500 inclusive of VAT then a further exemption may be registered. Registered exemptions cannot be passed to a new landlord if the property is sold – in this scenario the new owner would need to either improve the property to the required standard or register a new exemption.

### **Under what circumstances can a landlord register a MEES exemption?**

Exemptions would normally apply in the following circumstances:

- All the relevant energy efficiency improvements for the property have been completed (or there are none that can be carried out) and the property remains below an EPC Band “E”
- Where energy efficiency improvements to the property do not result in a SAP score of 39 (Band E) after the landlord has receipts to evidence a spend of up to £3,500 (inclusive of VAT)
- Where a certain measure cannot be installed due to its negative impact on the building’s fabric/structure (e.g. wall insulation)
- Third party consent cannot be obtained - this could include planning permission or consent from the tenant or superior landlord
- Installation of certain measures would reduce the property’s market value by >5% - this would need to be evidenced by Chartered Surveyor’s Report

A temporary exemption will also apply where a person has become a landlord unexpectedly (e.g. they may have inherited a rented property) but this will only last for six months, after which the property will be required to comply with MEES or an exemption registered.

A previously lodged exemption, on the grounds of ‘no upfront costs’ will expire on 1st April 2020 and not run for the five year term which was legislated when the exemption was lodged.

## Enforcement

Non-compliance with MEES will be enforced by Local Authorities, who can choose which department they wish to use.

Typically, this will be either Environmental Health or Trading Standards.

Where an EPC is legally required for a property, local weights and measures authorities (Trading Standards) are responsible for enforcing the regulations requiring an EPC to be made available.

A compliance notice may be served by the enforcement authority up to 12 months after a suspected breach of the MEES regulations and they may request copies of the following information:

- the EPC that was valid on the date the property was let
- the current tenancy agreement used for renting the property
- any Green Deal Advice Reports relating to the property

Where the Local Authority chooses to impose a fine, the level of financial penalty is at their discretion, up to the maximum limits set by the MEES regulations.

Maximum penalties for non-compliance are as follows:

- letting a sub-standard property for less than 3 months - up to £2,000
- letting a sub-standard property for 3 months or more - up to £4,000
- registering false or misleading information on the PRS Exemptions Register - up to £1,000
- failing to comply with a compliance notice - up to £2,000

The total amount of financial penalty per property (and per breach) cannot, under current legislation, be more than £5,000. The above penalties may also be accompanied by publication of the specific breach on the public exemptions register.

The landlord has the right of appeal if he or she believes any of the following apply:

- the penalty notice was based on an error of fact or an error of law
- the penalty notice does not comply with a requirement imposed by the Regulations, **OR** it was inappropriate to serve a penalty notice on them under the particular circumstances





### Improvement Tips for Landlords

There will almost always be multiple paths available to bring a Band F or G rated property up to an EPC Band E. In many cases a single measure such as insulating solid walls or updating a heating system will be sufficient to achieve an "E" rating or better.

There are several simple ways to help improve the EPC rating at little or no cost and these include the following:

- Install low energy lighting - this will not increase the EPC rating significantly but swapping existing bulbs is inexpensive and does not require specialist installation



- Apply draught proofing to old doors and windows
- Ensure the hot water cylinder is well insulated
- Retain all documentary evidence relating to any improvements installed. This is particularly important if a property has had a loft conversion or if floor or internal wall insulation has been installed. Where these installed measures are not visible to the assessor (and therefore cannot be recorded on site) relevant documentary evidence can be used when the EPC is produced.

Heating Systems : A common feature of sub-standard properties is the fuel type used. Single rate electricity scores badly therefore properties utilising panel heaters alone will often attract a low rating. This can be improved by installing High Heat Retention (HHR) storage heaters (and where necessary, changing the meter to dual tariff). At least one HHR heater within a dwelling is required for the EPC to show this as the main heating system.

Existing boiler systems can be improved at relatively low cost by upgrading heating controls. LPG is another fuel which attracts a poor EPC rating as it has the second highest price per unit in RdSAP. Often the location of the property will dictate the fuel types available but switching to a solid fuel burning system or storage heaters (with a dual tariff meter) will greatly improve the EPC rating.



Wall Construction : Another common feature of poorly performing properties is wall construction. Solid brick walls in particular will often attract a lower EPC rating than other types such as cavity walls.



However, updates to RdSAP in November 2017 (version 9.93) included improvements to the assumed (default) U-values of solid walls. As a consequence this could mean that some properties, which previously scored below band “E” under RdSAP 9.92, might achieve a higher rating if assessed using the updated methodology. Cavity wall insulation is sometimes available through funding schemes such as ECO.