

## Minimum Energy Efficiency Standards (MEES)

**Summary** *These Regulations introduce measures to improve the energy efficiency of certain private rented property in England and Wales. It provides that, the landlord of a non-domestic private rented property must not grant a new tenancy of the property after 1st April 2018, and must not continue to let the property after 1st April 2023, where the energy performance of the property is below the minimum level).*

*A minimum energy efficiency level based on the English Energy Performance Certificate (EPC) scheme for private rented properties: that is, is an energy performance indicator of band E.*

### Why force further action for energy efficiency in existing buildings?

Research in 2014 conducted by Consumer Focus shows that only 17% of those who have received an EPC have acted on the recommendations. EPCs were introduced to reduce energy use and CO2 emissions and partly a lack of action by building owners has required mandatory improvements to be made.

### The relevant regulations

Relevant legislation: The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

### Effective

1st April 2018

This legislation is triggered by new leases and lease renewals although not sales.

### Buildings exempt

**Relevant energy efficiency improvements** - This includes properties subject to a Green Deal agreement in place. The landlord of a sub-standard non-domestic private rented property has made all the relevant energy efficiency improvements for the property. This exemption is only allowed where there are no relevant energy efficiency improvements that can be made to the property.

**Consent exemption** - When the landlord has, within the preceding five years, been unable to increase the energy performance indicator for the property to not less than the minimum level of energy efficiency as a result of either the tenant refusing consent or despite reasonable efforts by the landlord to obtain third party consent, that consent having been (i)refused, or (ii)granted



subject to a condition with which the landlord cannot reasonably comply.

**Devaluation exemption** - This exemption applies where the landlord has not made a relevant energy efficiency improvement because the landlord has obtained a report prepared by an independent surveyor which states that making that relevant energy efficiency improvement would result in a reduction of more than 5% in the market value of the property, or of the building of which it forms part.

**Short term letting exemption** – Where a lease is entered into for a period of 6 months or less and leases of more than 99 years the regulations do not apply.

**Temporary exemption** - The regulations do not apply to a landlord until six months after the date on which the landlord becomes, or continues to be, the landlord of that property.

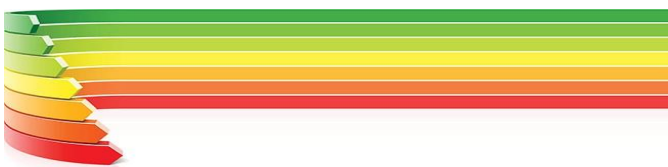
### Breach of regulations

Where a landlord lets, or continues to let, a non-domestic private rented property in breach of regulation 27, that breach does not affect the validity or enforceability of any provision of the tenancy. The trigger point for the section 63 part of the new legislation would be a sale or new lease. A sub-let or assignation is not considered a new lease.

### Enforcement

The new MEES makes provision for the enforcement of the requirements by local authorities. A local authority can make a financial and publication penalty.

Landlords seeking to rely on a prescribed exemption when letting a private rented property which falls below the minimum level of energy efficiency must register that exemption on a register maintained by the Secretary of State. The landlord may request a review of the penalty notice by the enforcement authority and, where a penalty notice is confirmed on review, may appeal against the imposition of the penalty notice to the First-tier Tribunal. A further penalty can be imposed for further non-compliance. Where the regulations apply, the owner of the building must undertake further assessment to produce an 'Action Plan'. This document identifies targets to reduce the carbon consumption and energy performance of the building and how these targets would be met through physical improvements to the property.



### Differences between English, Welsh and Scottish minimum regulations

It is important to note that these English requirements are different from the regulations to be introduced in Scotland.

It is also important to note that EPC grades in England and Wales should be not directly comparable to Scottish EPC grades.

The minimum energy efficiency scheme introduced in Scotland on 1<sup>st</sup> September 2016 is different. In Scotland buildings in excess of 1,000 sq m will require what is generally referred to as Section 63 Action Plan. Exemptions to this include buildings constructed after 2002 or buildings that meet the equivalent of the 2002 energy standards.

### Background to energy efficiency in buildings in the UK

Energy Efficiency regulations of buildings in the UK came into force on 4 January 2003. The objective is to promote improvement of the energy performance of buildings and to reduce the amount of carbon produced as a result of their energy use.

Buildings account for 37% of the total greenhouse gases in the UK. Reducing energy consumption and using energy from renewable sources are of paramount importance in reducing UK energy dependency and greenhouse gas emissions.



### Contact

Metro Commercial provides Energy Performance Certificates for non-domestic buildings throughout the UK and Section 63 Action Plans in Scotland.

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