

## Minimum Energy Efficiency Standards (MEES) Guidance for Landlords

### Landlord External Guide

The Energy Act 2011 contained a number of proposals to improve the energy efficiency of properties in England and Wales. From April 2018 the government has released regulations to implement Minimum Energy Efficiency Standards (MEES) and make it unlawful, in the majority of cases, to let a property with an energy efficiency rating of F or G. Exemptions can be registered but are subject to re-application every five years with no certainty that exemptions will continue.

#### MEES Timeline

- 1<sup>st</sup> April 2018: The granting, renewing or extending of a tenancy for residential and commercial properties with an F or G rating will be unlawful (this will include all tenancies including periodic tenancies)
- 1<sup>st</sup> April 2020: All tenancies that existed prior to April 2018 cannot continue with an F or G rating

There is a lot of confusion in the Industry on how to implement these regulations. Both industry professionals and legal experts are issuing conflicting advice. This Guide is based on the advice and recommendation from ARLA Propertymark.

#### Exemptions

Where a property has an EPC rating of band F or G a landlord will need to make improvements to the property to raise the EPC rating to a minimum level of E. However, there are exemptions which are:

- The landlord is unable to obtain funding to cover the cost of making improvements\* ; or
- Where all improvements which can reasonably be made have been made, and the property remains below an EPC rating of Band E.

There will be some situations where the building may be exempt but evidence backed up by a professional report is required. The following examples are where the building may be exempt:

- The changes required will reduce the value of the property by 5% or more
- The property would be damaged by installing wall insulation
- It is not possible to gain the consent for the works to be completed from the tenant, lender or superior landlord

Exemptions may last for up to five years but some may be for a shorter period of time.

***\* The government is proposing to introduce a landlord financial contribution component to ensure the property reaches an EPC rating of A – E. It is believed the landlord contribution could be capped at £2,500 however the exact details are still unknown.***

#### Exemption Register

At the time of printing this document the Exemption Register has not been fully launched by the Government. However there is a BETA test register in place and they advise that any exemption registered on the BETA site will be carried over to the full official site once launched. Please see below for a link to the BETA Register:

<https://prsregister.beis.gov.uk/NdsBeisUi/used-service-before>

#### Listed Buildings

Due to the lack of clarity from Government in respect of Energy Performance Certificates and MEES ( Minimum Energy Efficiency Standards ) for Listed Buildings our advice to cover off any potential issues in respect of “breaches of the legislation “ and the ability to serve Section 21 notices for possession would be as follows:-

To provide an EPC for your property and should this then not meet the minimum standard of an “E” rating, assess as whether the improvements recommended would unacceptably alter the character or appearance of the property.

If the works would not be permitted due to 'Listed Building' status this might suggest that the works would unacceptably alter the character and appearance of the property. You can apply for an Exemption if the improvements suggested would unacceptably alter the character or appearance of the property. The Exemption will permit you to let the property even if the EPC rating is below the "E" minimum standard.

If you are in any doubt as to whether the recommended works would alter the building's appearance or character you should seek advice from the local authority's conservation officer because any failure to comply with the regulations could lead to enforcement action being taken against you.

This is purely our advice. We would suggest you also take Independent legal advice. We would however advise that the Leaders Romans Group accept no liability for any issues that may arise regardless of whether you act upon our advice or not.

## Properties at risk

The existing EPC will state a property's current rating. If the property is rated F or G a landlord will need to begin to make improvements in order to increase the energy efficiency to meet the 2018 requirements.

The software that produces EPCs has become increasingly more accurate over time and provides a much wider scope in which energy efficiency measures are analysed. It is widely anticipated that many EPCs assessed as an E category prior to 2012 may now fall into an F or G category.

## What does this mean to a landlord?

### EPC Currently A-D

A valid EPC must be issued to the tenant prior to the start of the tenancy and a tenancy cannot be renewed or extended without a valid in date EPC.

For a Section 21 Notice to be enforceable to gain possession of the property a tenant must be issued with a valid EPC prior to the commencement of the Tenancy.

### EPC Currently E

A valid EPC must be issued to the tenant at the prior to the start of the tenancy and a tenancy cannot be renewed or extended without a valid in date EPC.

For a Section 21 Notice to be enforceable to gain possession of the property a tenant must be issued with a valid EPC prior to the commencement of the Tenancy

With improvements in technology there is a risk that an E rated property may reduce when the EPC is renewed. It is recommended you arrange for a review of your current EPC to see if it is likely to move to an F when renewed.

### EPC Currently F-G

You cannot relet, extend or renew a tenancy at the property until works are carried out to improve the rating to at least an E or claim an exemption.

## EPC Lifespan

EPCs have a lifespan of 10 years. EPC legislation was first introduced in 2008 and those EPCs carried out at that time will expire in 2018.

'Buy to let' lenders may want confirmation of the property's energy efficiency standards going forward. Where the current banding could make it borderline in the future there is a possibility it may decrease in value as a let property.

## Costs

The cost of energy efficiency improvements can vary due to the property age, type, size and current rating but landlords may not necessarily have to pay huge sums to meet the new minimum standards.

The funding that a landlord may rely on can be one or a combination of the following:

- A Green Deal Plan;
- Energy Company Obligation or similar scheme (ECO);
- Funding provided by central government or local authority or third party at no cost to the landlord;
- A combination of any of the above.

**ECO** is a mechanism that landlords can rely on to fund recommended improvements. ECO is a requirement that the government places on energy suppliers to reduce consumption and assist those living in fuel poverty. It does this by placing a positive obligation on suppliers to provide households, including rented properties, with energy

efficiency improvements. The current obligation runs until September 2018 and includes carbon and heating bill savings.

## Green Deal Plan

The new privately owned Green Deal Financial Company (GDFC) is now offering Green Deal loans in a similar way to the original green deal plan.

The loans are repaid as part of the property's energy bill by the bill payer in regular instalments. The 'Golden Rule' defined in the Energy Act 2011 states that repayments in the first year cannot exceed the savings in the same period.

### Penalty charges and enforcement

Each individual infringement is penalised in the following manner:

- Renting out a non-compliant property and the landlord is less than three months in breach up to £2,000 and/or publication penalty;
- Three months or more in breach: up to £4,000 and/or publication penalty;
- Providing false or misleading information to the PRS Exemption Register: up to £1,000 and/or Publication Penalty;
- Failure to comply with a compliance notice: up to £2,000 and/or Publication penalty.

### Leaders can assist to ensure continuity of income

To guide landlords through these regulations Leaders have partnered with Vibrant Matters, the UK's largest supplier of Energy Performance Certificates and related services.

If your property is rated F or G Vibrant will be able to offer a 'Desktop MEES' Report. This report will identify if energy efficiency works will increase the rating to E or above and if funding is available. Where funding is available Vibrant will organise these works on your behalf. If funding is not available Vibrant will advise and an exemption can be applied for.

The Desktop MEES Report will also be able to advise in advance if a new EPC will reduce the current rating prior to the expiry of the current EPC. This will allow a landlord time to carry out any necessary works before the current EPC expires and therefore reduce the risk of any void periods.

### Costs

Desktop MEES Report	£48.00 inclusive of VAT (£40.00 + VAT)
EPC*	£90.00 inclusive of VAT (£75.00 + VAT)
Green Deal Assessment	£150.00 inclusive of VAT (£125.00 + VAT)

\*If a Vibrant EPC identifies an EPC rating of F or G Vibrant will provide a MEES Report free of charge to identify the works necessary to improve the rating.

# Current EPC Rating

A - D

A valid EPC is required to market the property and be in place to renew or extend to your current tenants. For a Section 21 Notice to be enforceable Tenants must be issued with a copy of a valid EPC prior to the start of the tenancy.

E

A valid EPC is required to market the property and be in place to renew or extend to your current tenants. For a Section 21 Notice to be enforceable Tenants must be issued with a copy of a valid EPC prior to the start of the tenancy.

Due to the changes on how an EPC rating is measured the property's EPC rating may fall below an E when the current EPC is updated. We can arrange a Desktop MEES Report to identify any potential problems and any works to increase the rating to E or above

F - G

It will be unlawful to let, renew or extend a tenancy after 1st April 2018. Please contact Vibrant who will be able to you advise on how to ensure you can continue to let the property

**Q: Do I have to spend a certain amount of money in improving the energy efficiency of my property?**

A: A landlord is only required to make improvements to an F or G rated property to meet the minimum standard if they can do so at no cost to themselves. 'No cost funding' can come from a range of sources, primarily but not limited to:

- Green Deal Finance,
- ECO help to heat funding,
- Local Authorities home energy efficiency grants

Please contact Vibrant who will be able to you advise on how to ensure you can continue to let the property.

**Q: What if it is not possible for my property to reach the Minimum Standard even with all possible improvement works undertaken?**

A: In this case the landlord would be eligible for an exemption under section 25(1) (a) of the Regulations. The landlord is still obliged to install as much energy efficiency measures as possible to reach the Minimum Standard; they would have to provide details of the recommended improvement measures that have been installed.

Please contact Vibrant who will be able to you advise on how to ensure you can continue to let the property.

**Q: How long does an exemption last?**

A: This depends on the nature of the exemption registered; the majority of exemptions run for five years, however several run for a shorter period of time.

**Q: How can I register an exemption?**

A: Domestic landlords can register valid exemptions on The Register which is an online platform and can be accessed from the *Private Rented Property Minimum Standard* page on gov.uk at:

[www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents](http://www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents).

**Q: My property does not have an EPC as it was let prior to 2008, do I need one?**

A: If you wish to let to new tenants, renew or extend to your existing tenants after 1<sup>st</sup> April 2018 you will require a valid in date EPC. Leaders will be happy to arrange this for you with Vibrant and please contact your local branch.