

Minimum Energy Efficiency Standards (MEES)

How are you affected?

If you haven't already heard about the Minimum Energy Efficiency Standards (MEES) here's a bit more about what they are, what to do to prepare for them, and by when.

The new standards will directly affect tenants, landlords, investors and developers, as well as lenders.

Whilst they bring with them potential threats, such as penalties for non-compliance, there are also some opportunities.



What are the MEES?

The MEES fall under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and originate from the Energy Act of 2011.

They are designed to tackle the least energy efficient properties in England and Wales, to decrease the UK's greenhouse gas emissions.

Under the MEES, from 1 April 2018 it will become unlawful for landlords of buildings within the scope of the Regulations to renew existing tenancies, or grant new tenancies, if the building has an Energy Performance Certificate (EPC) rating below E.

What will happen, when?



1 April 2018

It will become unlawful to grant new tenancies or to renew existing ones for non-domestic properties with an EPC rating below E.



1 April 2020

The MEES will expand to apply to all domestic properties and landlords will no longer be able to continue to let a property with an E rating.



1 April 2023

Regulations will be extended to include all existing commercial leases.

Exemptions

To get to grips with when MEES applies requires an understanding of both the MEES and Energy Performance of Buildings (England and Wales) 2012.

This isn't easy and creates a number of ambiguities which, without professional advice, could pose a risk to your business.

MEES does not apply for:

- Buildings that don't need to have an EPC, such as industrial sites, non-residential agricultural buildings with low energy demand, some listed buildings, temporary properties and holiday lets
- Come 2023, buildings with EPCs over 10 years old, or where there is no EPC (until such time as an event triggers the need for one)
- Tenancies of less than 6 months (with no right of renewal)
- Tenancies over 99 years

Limited additional exemptions also apply.

All exemptions must be registered on the central government PRS Exemptions Register, due to go live on 1 April 2018.

They last for 5 years and cannot be transferred to a new landlord if the building is sold.

Who is affected and how?

Tenants

If you're a tenant you may be affected by MEES in a number of ways.

Threats

- Financial impact of compliance work costs, passed on via certain lease clauses
- Delays from compliance works for lease renewals, and delays to new lease completions
- Ability to use building during compliance works

Opportunities

- Improvements to the building for the benefit of tenants
- Improvements in associated energy costs
- No changes to rights under Landlord and Tenant Act 1954

Landlords

If you're a landlord, the potential financial effect on your property could prove significant, especially if your property cannot be let because it is non-compliant. It's important to get professional advice and to carry out an audit of the existing and future risks that the Regulations pose to your business now.

Threats

- Financial impact of upgrading non-compliant buildings
- Impact on rent reviews and lease renewals
- Financial impact if buildings cannot be let because of uncompliant rating
- Inability to recover capital expenditure due to lease provisions

Opportunities

- Improvements to buildings for the benefit of tenants
 - Proposed improvements damage the property
- Capital expenditure recoverability for improvement works
 - Proposed improvements don't generate enough energy savings in 7 years
- Ability to continue to let a MEES affected property if:
 - Proposed improvements reduce market value by more than 5%
 - Consent for improvement works is denied by tenants or planning authorities

Investors and developers

The key threat to you as freehold investors and developers is the potential effect on asset value and development timescales.

If you're a freehold investor with a headlease over 99 years, you aren't classed as a landlord, but the Regulations will still have an impact.

Where there is more than one landlord, the terms of the headlease will dictate who is financially responsible for improvement works.

Threats

- Depreciation in property value for non-compliant buildings
- Difficulty in finding new landlords for non-compliant buildings
- Potential delays to future development

Opportunities

- Improvements to assets for the benefit of landlords and tenants
- Ability to improve sustainability credentials
- More affordable acquisition opportunities for developers

Lenders

As a lender, you will also be affected by the Regulations – whether directly, or indirectly.

Threats

- Capital expenditure costs which affect borrower repayments
- Becoming subject to the MEES when taking possession of a non-compliant property from defaulting borrowers

Opportunities

- Creation of new loans to help landlords bring properties up to standard
- Ability to maximise future lending opportunities by reviewing lending criteria / conditions

Risks of non-compliance

The Regulations will be enforced by the Local Weights and Measures Authorities (LWMAs).

They will have the power to impose civil penalties equivalent to 10% of a property's rateable value, with a minimum penalty of £5,000 and a maximum penalty of £50,000.

If no action is taken to comply within 3 months, this rises to 20% of rateable value, with a minimum penalty of £10,000 and maximum of £150,000.

Preparation is key

The regulations have been a long time coming and whilst many people are already well prepared, there's nothing like an impending deadline to concentrate the mind.

Some key dates may seem a long way off, but with Government expected to raise the standard even further, this isn't an issue that will go away.

Now is the time to carry out an audit of your property portfolio and plan any necessary remediation works, whilst ensuring you understand how you might be affected.

Ultimately, the Regulations are an opportunity to deliver above the minimum standards on sustainability - both to create desirable locations for tenants, whilst delivering assets that are truly fit for the future.

Act now

We have been working with tenants, landlords, investors, developers and lenders across the UK to ensure they are aware of, and can meet, the new requirements.

Through our expert advice, we can help you prepare for both the expected, and unintended consequences of the changes.

For an informal consultation with one of our experts, get in touch:

MEES Tenant Adviser



David Castle

Partner

T +44 (0)118 909 7456

M +44 (0)7979 708473

E dcastle@vailwilliams.com

MEES Landlord Adviser



Adam Schofield

Associate

T +44 (0)118 909 7486

M +44 (0)7887 830695

E aschofield@vailwilliams.com

MEES Investor / Developer Adviser



Richard Dawtrey

Partner

T +44 (0)20 3589 0058

M +44 (0)7881 588526

E rdawtrey@vailwilliams.com

MEES Lender Adviser



James Bennett

Partner

T +44 (0)118 909 7413

M +44 (0)7770 304010

E jbennett@vailwilliams.com

For more information, you can download additional Government guidance [here](#).