

# Information

## MEES – Overview of issues when taking a residential lease or buying a property subject to a residential lease

This Information Sheet is being sent to you because you are taking a residential lease or buying a property subject to a residential lease that is affected by the Minimum Energy Efficiency Standards Regulations (MEES).

### What are MEES?

MEES were brought into force by The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and seek to impose minimum energy efficiency standards for properties.

MEES do this by reference to the Energy Performance Certificate (EPC) rating of a property. Therefore, for MEES to apply a property must have an EPC.

### Is an EPC required for every residential property?

No, an EPC is not always required. For example, properties without heating, air conditioning or ventilation equipment and some listed buildings do not require an EPC. Therefore, some residential properties will fall outside the scope of MEES because an EPC is not required for that type of property. For further guidance on when an EPC is required click [here](#).

### Which residential leases are caught?

MEES apply to two main categories of residential lease:

- **Assured tenancies:** this category includes assured shorthold tenancies which are the most common form of tenancy used by landlords of privately rented accommodation.

- **Regulated tenancies:** various forms of regulated tenancy are included, for example Rent Act protected tenancies and some agricultural tenancies.

There is no upper or lower limit on the length of term of a tenancy that can be caught by MEES.

### Which residential leases are not caught?

There are many types of residential tenancy which are not caught by MEES, most notably:

- Social housing exclusions applying to registered providers of social housing and registered social landlords.
- The long list of tenancies set out in the Housing Act 1988 which do not satisfy the requirements of an assured tenancy. By way of example, lettings to companies, leases granted to students by specified educational institutions, Crown tenancies, and some holiday lettings.

As mentioned above some residential properties will also fall outside the scope of MEES because, regardless of the type of tenancy granted, EPC certificates are not required for that type of property.

### Are just lettings affected?

Yes, unlike the EPC Regulations, MEES only apply on lettings and not on sales.

### What do the MEES say?

So far, MEES have taken effect in two stages. Unless an exemption applies:

**Head Office**  
Heathervale House  
2-4 Vale Avenue  
Tunbridge Wells  
Kent TN1 1DJ  
T 01892 510000  
F 01892 540170

**Thames Gateway**  
Corinthian House  
Galleon Boulevard  
Crossways Business Park  
Dartford  
Kent DA2 6QE  
T 01322 623700  
F 01322 623701

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- From 1 April 2018, all properties must be have a minimum energy efficiency standard of EPC rating E or above before they can lawfully be let.
- From 1 April 2020 where a lease is already in place, a landlord must not continue to let a property with an EPC lower than an E.

### Future changes to MEES

The Government have proposed further changes to MEES. They launched a [consultation in 2020](#) on improving the energy performance of privately rented homes. This consultation ended in January 2021 but the outcome has not yet been published. The Government's proposals include raising the minimum EPC rating to C for new tenancies from 2025 and for all existing tenancies from 2028. Under the proposals, exemptions would still be available but one of the Government's core policy proposals is to increase the maximum amount that landlords of sub-standard homes are required to invest in energy efficiency improvements to £10,000. Many property owners will therefore be faced with carrying out potentially major energy efficiency improvements and/or registering an exemption if these changes are made.

### Is a letting granted in breach of MEES enforceable?

Whilst it will be unlawful to grant a lease of a substandard property after 1 April 2018, and to continue to let a property after 1 April 2020 unless an exemption applies and is registered, the tenant will still have a valid lease and it will be enforceable.

### What happens if a landlord fails to comply?

There are financial penalties for breaching MEES. For residential properties, the maximum fine is £5,000 per property. For more information on penalties click [here](#). There is of course also the risk of reputational damage for landlords who are found to have flouted the rules.

### Exemptions

There are exemptions a landlord may rely on where it lets out a substandard residential property after 1 April 2018, or continues to let after 1 April 2020:

- **No relevant improvements:**

There are no relevant energy efficiency improvements that can be made to the property or all relevant energy efficiency improvements have been made. In relation to residential properties, MEES had a "no cost to landlord" principle, when it was introduced (as the costs were supposed to be funded by Green Deal finance packages or similar schemes), however this changed on 1 April 2019 when the regulations were amended. Since this date, even if no funding is available, Landlords will generally need to spend up to £3,500 (inclusive of VAT) per property in an attempt to improve substandard properties to a minimum of EPC rating E. Money spent by landlords on unregistered energy efficiency improvements since 1 October 2017 can be taken into account. Note that where the only relevant improvements are a prescribed form of wall insulation and such measures would negatively impact

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on the fabric or structure of the building they do not need to be carried out.

If the cheapest recommended improvement exceeds £3,500 (inclusive of VAT) a high cost exemption can be claimed – see below.

- **High cost exemptions:** This can only be claimed if the landlord has quotations from three installers to show that the cost of making the **cheapest** recommended improvement exceeds £3,500 (inclusive of VAT). Government guidance suggests this exemption will rarely be appropriate as there will usually be at least one recommended improvement that can be made that will cost less than this amount (for example low energy lighting, draught proofing, hot water cylinder insulation etc.).
- **Inability to obtain consent:** Despite reasonable efforts, within the preceding 5 years, if the landlord has been unable to obtain the consent of the tenant or a third party (e.g. superior landlord, mortgagee, planning authority) to the making of the relevant improvements.
- **Devaluation:** An independent surveyor's report, within the preceding 5 years, states that any relevant energy efficiency improvement would result in a reduction of more than 5% of the market value of the property or the building of which it forms part.
- **Temporary exemptions:** A temporary six month exemption is available in limited circumstances such as where a lease is granted pursuant to a court order or by operation of law. It is also available where a landlord is acquiring a substandard property after 1 April 2020 that is already let.

Exemptions are not transferable. Although, as stated above, there will be a 6 month exemption available to landlords who acquire an already let substandard property after 1 April 2020.

If an exemption under MEES applies it needs to be registered in the central PRS Exemptions Register to be valid. [Click here](#) for a link to the PRS.

### Exemptions Duration

Exemptions will generally last a maximum of 5 years. Although it should be noted that an exemption based on failure to obtain a tenant's consent will expire when the tenancy is assigned or terminated.

### Who pays for the cost of carrying out energy efficiency improvement works?

This is a tricky question. To a large degree it will depend upon the provisions in your lease.

Part 2 of the MEES Regulations enables a tenant of some residential properties to request the landlord's consent to the tenant making energy efficiency improvements. The landlord's consent cannot be withheld unreasonably even if the lease prohibits any alterations. There is no requirement for the property to be of a substandard EPC rating for the tenant to be able to make this request. If the tenant makes this request they must fund the works.

Generally however the MEES regulations place responsibility to deal with MEES on the landlord and it is therefore believed that a covenant by the tenant to comply with statutory obligations will not make them

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liable to undertake energy improvement works. However, some leases do seek to pass on or share the costs of compliance.

### Key Provisions

There are provisions in your lease that you should consider carefully in relation to MEES. What provisions need to be considered will very much depend on what type of residential tenancy is in place. For example an assured shorthold tenancy will contain much simpler terms than a longer residential lease.

If you are reading this advisory note in a Report on Property we have sent you, any key provisions will have been summarised in the lease report appended to your Report on Property. In particular, you should consider the paragraph titled “Net Zero”. Relevant provisions may relate to:

**Access rights:** does a landlord have rights of access to carry out energy improvement works? Is consent required from the tenant or someone else?

**Service charge:** do any service charge provisions seek to pass on the cost of improvement works to the tenant in so far as that is possible or has the tenant carved out any liability.

**Length of term and break option:** is the term appropriate if MEES requirements are raised and extensive energy improvement works need to be undertaken?

**Rent review:** if there is a rent review, what will happen if the property has a substandard EPC and it is now unlawful to continue letting it?

**Alienation:** will MEES impact the tenant’s ability to assign or underlet?

**Alterations:** will the tenant be able to carry out any alterations they require without impacting the EPC rating?

**Dilapidations:** What impact could MEES have on any dilapidations claim made at the end of the term?

### What do you need to do now?

If you are going to be the landlord of a substandard (or potentially substandard) property you need to consider what action you are going to take and when in relation to MEES. You also need to consider when and how you are going to do the works to comply with MEES (now and in the future) or if you are going to seek to register an exemption. Remember, exemptions need to be registered in the PRS Exemptions Register to be valid.

Landlords need systems in place to monitor their portfolios to identify potentially substandard properties and to track whether any registered exemptions have expired.

If you are going to be the tenant of a substandard (or potentially substandard) property you need to carefully consider the terms of the lease and ascertain from the landlord when and how it intends to do the required works to bring the property up to standard. It is also important to ascertain who is paying for these works and what affect the landlord’s actions will have on you (now and in the future). You also need to consider any future plans you may have and how they interrelate with MEES. For example, if you wish to do works to the property or to sublet it.

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### Further information

This Overview Information Sheet has been prepared to highlight some of the key issues relating to MEES in relation to taking a residential lease or buying a property subject to a residential lease only. It is based on our understanding of MEES as at April 2023 and may be affected by subsequent changes to the regulations and non-statutory guidance. For more information, please contact Sarah Easton on 01892 510000 or by email at:

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