A Concept Energy Guide

WHO SHOULD READ THIS GUIDE?

Landlords of non-domestic private rented properties in England and Wales, including public sector landlords.

MEES 2018 IN A NUTSHELL

From **1 April 2018,** landlords of non-domestic private rented properties in England and Wales, including public sector landlords, may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G (shown on a valid Energy Performance Certificate for the property)

From **1 April 2023,** landlords must not continue letting a non-domestic property which is already let if that property has an EPC rating of band F or G.

WHY MEES?

The MEES April 2018 requirement derives from the Energy Act of 2011 and the Energy Efficiency (Private Rented Property) (England and Wales) Regulations which were approved by Parliament and made on 26 March 2015.

The Act, and its subsequent regulations, are designed to improve the energy efficiency of the built environment. Government has identified the built environment as a major contributor to Greenhouse Gas emissions and therefore a major threat to the UK meeting its carbon reduction targets for 2020 and 2050.

MEES is designed to improve the energy of older building stock, usually those built before 2006.

WHAT ARE YOUR OPTIONS FROM 1 APRIL 2018 ONWARDS?

If you are a landlord of a non-domestic private rented property then you have three choices:

- Implement energy efficiency improvements to bring the building to E rating or better.
- Claim an exemption.
- Continue with an existing tenancy.

1. IMPROVING THE RATING FOR YOUR BUILDING

If your current Energy Performance Certificate (EPC) rates your building below an E then there are a number of actions you can take in order to improve energy efficiency.

These might include:

- Upgrade of heating or cooling systems (new plant and control) if your system is more than 15 years old.
- Upgrade of air handling systems (new plant and control) if your system is more than 15 years old.
- Lighting upgrade – LEDs.
- Sub metering.
- Replacement fenestration.
- Additional Low or Zero Carbon (LZC) installation, providing this results in a 10%+ contribution to your energy requirement and passes the “seven year test”.

Seven Year Payback Test

Measures to improve the rating of a property should pass the Seven Year Payback Test, which is that the expected value of savings over a period of seven years should be equal to, or greater than, the cost of implementation.

The saving value must be calculated using an "approved methodology" (e.g. EPC software) and based on "relevant" energy prices; the cost of implementation should be calculated including labour and equipment costs, plus interest.

PRS Exemptions Register

Exemptions are self-certified, with auditing of exemptions by enforcement authorities.

When lodging an exemption, you will need to provide certain information, including a recognised source of professional opinion to support your exemption.

Exemptions are valid for five years but they are not transferrable in the event that a new landlord takes over a property.

2. CLAIMING AN EXEMPTION

Circumstances Where MEES is Not Applicable

There are a number of circumstances where MEES is not applicable. These are:

> Where a tenancy is granted for a term not exceeding 6 months unless the tenancy agreement contains provision for renewing the term, or extending it beyond 6 months from its beginning, or, at the time it is granted the tenant has been in occupation continuously for more than 12 months.

> Where a tenancy is granted for a term certain of 99 years or more.

> Where an EPC is not required. This includes:

- Listed buildings – part of a designated environment or special merit where energy efficiency improvements would unacceptably alter character/appearance.
- Places of worship/buildings for religious activities.
- Temporary buildings to be used for two years or less.
- Industrial/agricultural/other sites with low energy demand or national sectoral agreement.
- Standalone buildings with a total useful floor area of less than 50m^2.
- Furnished holiday accommodation.
- Buildings scheduled for demolition.

Applying for an Exemption

Landlords can apply for exemption via the "PRS Exemptions Register" where:

> All the relevant energy efficiency improvements to the property have been made but the property remains "sub-standard".

> There are no improvements that can be made; this will usually be where potential measures fail the "seven year rule".

> Implementation of the measures would lead to a devaluation of the property.

> Third party consent to the implementation of measures cannot be secured, despite "reasonable efforts".

3. CONTINUE WITH AN EXISTING TENANCY

Providing there is no change in tenancy then your building will not require an EPC of E or above until April 2023, when buildings under continuous let will also be brought under this standard.

ENFORCEMENT

The principle enforcement agency auditing exemption certificates is the Local Weights and Measures Authority (LWMA), supported by, for example, Trading Standards Officers or Environmental Health Officers.

Following service of a compliance notice, financial penalties for continuing non-compliance include:

> Within three months of issue of penalty notice – up to £5,000 or 10% of RV to a maximum of £50,000 (whichever is the greater).

> For breaches of penalty notice exceeding three months – £10,000 or 20% of RV to a maximum of £150,000.

> Option to publish penalty details.

SUGGESTED ACTIONS

If you haven't already done so then now is the time to:

> Review existing EPCs.

> Commission/produce EPC for any buildings where an EPC is not in place.

> Identify sites where action to be considered.

> Develop action plan.

Or, better still, call Concept Energy. Find out how our expert team can assist you to negotiate the best path for your business through your MEES obligations, including producing your EPC.

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