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Your Guide to Minimum Energy Efficiency Standards in the Non-Domestic Private Rental Sector



Introduction

Did you know that new laws came into effect from 1st April 2018, which affected the non-domestic private rental sector?

The Energy Act 2011 commits the Secretary of State for Energy and Climate Change to enforce regulations that aim to improve the energy efficiency of buildings in the non-domestic private rental sector.

As a result of this, from the 1st April 2018, it is unlawful to grant new leases for properties in England and Wales which do not meet the Minimum Energy Efficiency Standards (MEES). These regulations will extend to all privately rented properties from April 2023, and any non-compliance could result in heavy fines.

Five things you need to know;

1. Minimum Energy Efficiency Standards (MEES) is now law.
2. It is estimated that up to 20% of non-domestic properties in England and Wales could have an F or G rating.
3. From April 2018- The regulations have been enforced upon the granting of a new lease as well as lease renewals.
4. From April 2023- The regulations will apply to all privately rented property in scope of the regulations, including where a lease is already in place and a property is occupied.
5. The government has declared their wish to raise those standards further such that the minimum standard is likely to rise to a D by 2025 and a C Rating in 2030.

Landlords and their agents should act now by commissioning an up to date Energy Performance Certificate (EPC) from your local energy assessor who will not only identify the current energy rating (which may have changed over time) but can also provide recommendations for improvement.

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What is the Minimum Energy Efficiency Standard (MEES)?



The Energy Act 2011 contains a number of provisions that affect owners of property; the most significant of these is MEES, which aims to improve the energy efficiency of the least efficient properties.

From April 2018 changes to legislation now make it unlawful to agree a new lease for a non-domestic property with an Energy Performance Certificate (EPC) rating of below an E (i.e. any property with a rating of F or G).

It has been estimated that up to 20% of non-domestic properties could have an EPC rating below an E, meaning that unless they were upgraded to meet the minimum standards it is now illegal to rent them.

Further Implications

- The valuations of properties not meeting the standards are now likely to be affected, as their marketability will be diminished.
- Rent reviews on F and G rated properties may be adversely affected
- There may be implications for dilapidation assessments, where landlords have a legal responsibility to ensure the property is maintained to the standard agreed in the contract.

Penalties for non compliance

Financial penalties for non-compliance are linked to the rateable value of the property, but could be as much as **£150,000!**

Who will MEES apply to?



All non-domestic properties being newly let, and lease renewals, will now need to comply with Minimum Energy Efficiency Standards.

MEES applies to new lettings and lease renewals on or after the 1st April 2018. Landlords/property owners now need to ensure that the property meets MEES before the lease is granted. However, as of 1st April 2023 all privately rented property will be required to meet the minimum standards.

1st April 2018 - The regulations were enforced upon the granting of a new lease as well as lease renewals.

1st April 2023 - The regulations will apply to ALL privately rented property in scope of the regulations, including where a lease is already in place and a property is occupied.

Are any properties exempt?

Properties that do not require an EPC under current regulations will not be required to meet MEES (for example stand alone buildings less than 50m²). Moreover, MEES does not apply to short lettings (6 months or less) and lettings over 99 years or more.

Exemptions



The Government has underlined some instances where Landlords may be exempt from compliance with MEES. However, all exemptions are likely to have a time constraint.

Landlords can be made exempt from MEES if they are able to demonstrate one of the following:

They have carried out all the cost-effective energy efficiency improvements

Where all cost effective improvement measures determined by the recommendations report have been implemented and the property remains an F/G rating, the property owner/landlord will be exempt for 5 years.

Measures do not meet the Seven Year Payback Rule

Landlords/Property owners are expected to supply sufficient documentary evidence, quotes and calculations to prove that the recommended measures do not meet the seven year payback rule. If the measures are not deemed to meet the cost effective seven year payback, the property owner/ landlord will be exempt for 5 years.

If third-party consents are not available despite reasonable effort.

If consent to undertake work to install the required energy efficiency improvements is denied by a tenant, lender planning authority or higher landlord, this will make the landlord exempt from MEES for five years (unless the tenant who denied consent vacates the property).

Recommended Measures devalue the property by greater than 5%

Where a chartered surveyor (RICS registered) advises that installation of specific energy efficiency measures would reduce the market value of the property by more than 5%. This exemption would also last 5 years.

Recently becoming a Landlord

Where someone has become a landlord unexpectedly, it is deemed unreasonable and inappropriate to expect them to comply immediately with the standard. A temporary six month exemption may be used in this case.

What Next?

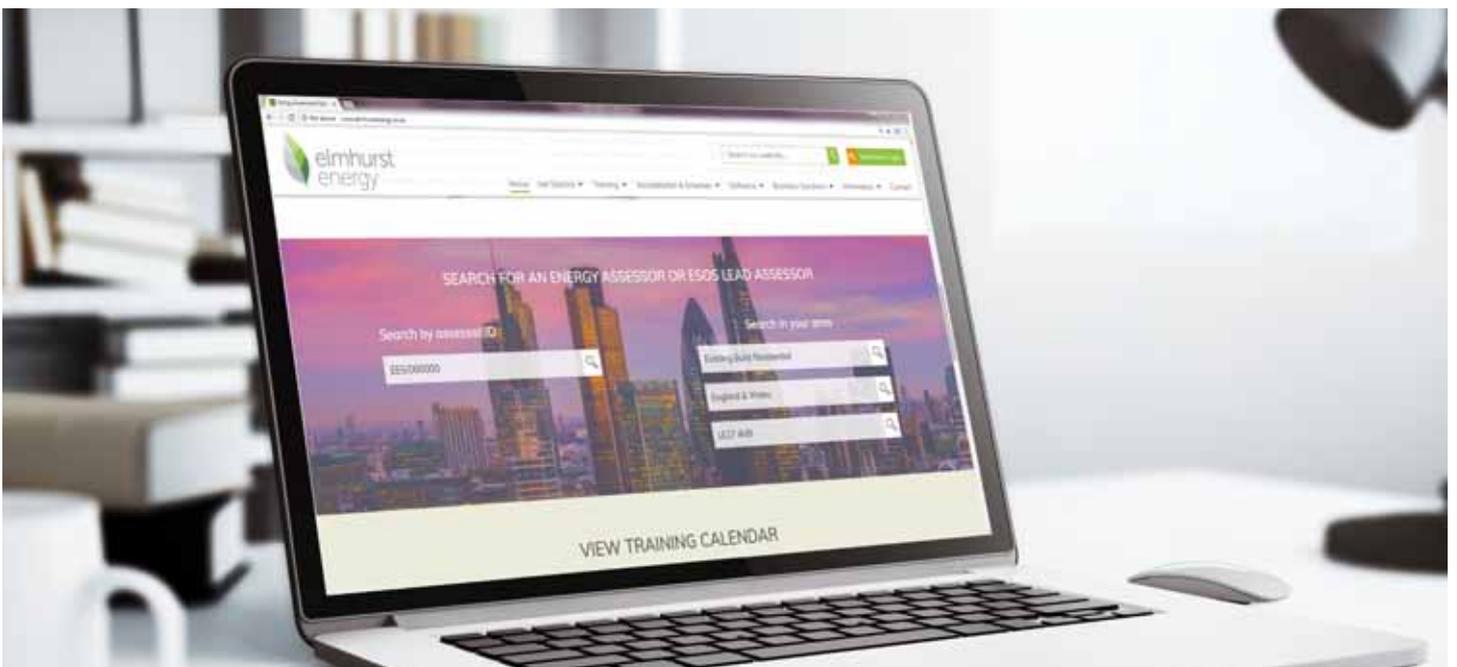


Given the risks to property owners, it is clear that a full understanding of energy efficiency is required for your property assets, in order to see if you are satisfying MEES.

Elmhurst's trained and accredited Energy Assessors can assess a property's energy efficiency and produce an EPC which will display the current energy rating for that property.

If improvements are recommended they can advise on suitability and viability for your property.

To find your local Elmhurst assessor please use our 'Search for Assessor' facility located on our website: www.elmhurstenergy.co.uk





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