

DEA TECHNICAL BULLETIN

Summary of the Domestic Private
Rented Property

Minimum Energy Efficiency
Standards (MEES)

Version: 5.0

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Elmhurst Energy
16 St Johns Business Park,
Lutterworth,
Leicestershire, LE17 4HB
01455 883 257



Summary of the Domestic Private Rented Property

Minimum Energy Efficiency Standards (MEES) v 5.0

This Technical Bulletin awards **30 Minutes CPD** for Elmhurst members and covers the following:

- Types of dwelling to which MEES apply
- MEES exclusions and exemptions
- Penalties for breaches
- Financing improvements
- Improvement tips for landlords



Overview

The MEES regulations form part of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and are a requirement of the Energy Act 2011.

Important Note

This Technical Bulletin is intended to provide a summary of the MEES regulations only and you are therefore also advised to read the full 'The Domestic Private Rented Property Minimum Standard' (amended version March 2019) document which can be downloaded [here](#)



The regulations apply to certain privately rented dwellings let on a **tenancy** (i.e. not a license) and do not apply to the social housing sector. The MEES regulations were, until 31st March 2019, in force on the basis that improvements made to the thermal efficiency of the dwelling would not incur upfront costs to the landlord. During 2018/19 this part of the legislation was subject to a Government review and the outcome of this means that the landlord is, from 1st April 2019, required to contribute towards the cost of energy efficiency measures, subject to a spending cap. Receipts to show that up to £3,500 (inclusive of VAT) must therefore be retained and submitted to prove that this amount has been spent on energy efficiency measures prior to being able to apply for an exemption on grounds of expenditure.



The Benefits of Energy Efficiency

F & G rated properties waste energy and result in unnecessary costs to tenants. Poorly rated dwellings also contribute to greenhouse gas emissions. Upgrading the property can therefore benefit the Landlord, the tenant and the environment in the following ways:

- Managing tenants' energy costs helps to reduce fuel poverty
- Can improve the condition of the property and reduce maintenance costs
- Provides more energy efficient homes
- Smooth seasonal peaks in energy demand for gas and electricity supplies and therefore increase energy security
- Greenhouse gas emission will be reduced

Improving efficiency may produce additional benefits for the Landlord, such as shorter void periods. Another incentive is that tenanted homes which are classified as cold have an average of two weeks more rent arrears. A well-insulated dwelling may sell or rent out more easily and may even have a higher value.

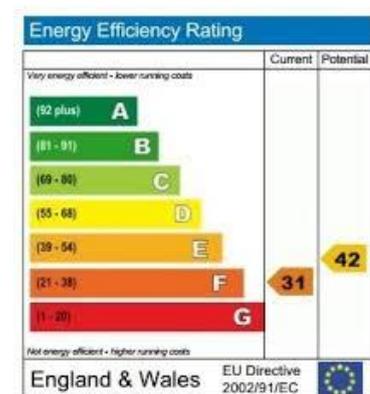
The Minimum Level of Energy Efficiency

The minimum level of energy efficiency is an Energy Performance Certificate (EPC) rating of **Band E**. Landlords may, of course, aim to achieve a rating higher than this current requirement should they wish.

This means that, subject to certain requirements and exemptions:

- With effect from **1st April 2018**, landlords of relevant domestic private rented properties were not legally able to grant a tenancy to new or existing tenant(s) if their property has an EPC rating of Band F or G
- From 1st April 2019** if an existing tenants moves out and the existing EPC has an F or G rating, the landlord cannot legally commence a new tenancy without carrying out measures to improve the energy efficiency of the dwelling, and can no longer lodge an exemption based on the grounds of 'no upfront costs'.
- From **1st April 2020**, landlords must not continue to let a relevant domestic property which is already let, if that property has an EPC rating of Band F or G.

Please note: the above requirements also apply where the property is to be sub-let.





To which dwellings do the MEES regulations apply?

The minimum standard will apply to any domestic privately rented property which is:

- Legally required to have an EPC; and
- Let on a relevant type of tenancy

Where these two conditions are met the landlord must ensure that the minimum standard of an EPC Band E is met or exceeded. Further details of these two criteria are detailed below.

When is an EPC legally required?

It is a legal requirement to obtain an EPC under the following circumstances:

- New-build or newly formed dwellings (N.B. – this must be a SAP EPC issued by an On-Construction (OCDEA) assessor)
- The property is offered for sale or has been sold
- The property is available to rent or has been let
- Where improvements have been carried out which require an EPC for Building Regulations compliance

Circumstances where an EPC may not be required

Guidance issued by DCLG states that an EPC is not required where the landlord can demonstrate the building is any of the following:

- A building used as a place of worship and for religious activities
- A temporary building with a planned time of use of two years or less
- Stand-alone (detached) buildings with a total useful floor area of less than 50m²
- HMO's (Houses in Multiple Occupation)- these can be bedsits, hostels, shared houses etc. which have not been sold, or let as a single rental in the previous ten years (note: if an EPC exists for a whole building and it is below band E then the landlord will need to achieve the minimum standard in order to issue new tenancies from April 2018)
- Furnished holiday accommodation where the occupancy is via licence and/or the occupant is not responsible for meeting the energy costs
- Buildings due to be demolished



Listed Buildings

The Regulations apply to *all* domestic PRS properties in England and Wales which are:

- a) let under certain types of domestic tenancy (see section 1.1.2 of the Domestic Private Rented Property Minimum Standard document by clicking [here](#)) **and**
- b) which are legally required to have an Energy Performance Certificate (EPC) (see section 1.1.4 via the link above).

For the avoidance of doubt, this means that where a domestic private rented property meets these two conditions, it *will* be covered by the Regulations, irrespective of property type, length of tenancy, location, listed status, property size or any other characteristic. Conversely, where a property is let on a relevant tenancy type but is not legally required to have an EPC, or if it is required to have an EPC but is not let on a relevant tenancy, that property will not be covered and will not be required to comply with the Regulations.

Elmhurst has formed this opinion from experience and in-depth knowledge of the energy efficiency regulations that come with being the largest government approved EPC accreditation body. This is, however, a complex legal area and property owners are encouraged to seek independent legal advice before taking action.

Elmhurst believes that Listed Building should be required to have EPCs and we will continue to work with government in this regard.

Voluntary EPCs

Where the owner or occupier of a dwelling which is not legally required to have an EPC has obtained one voluntarily, the landlord will not be required to comply with the MEES regulations until the next MEES 'trigger point' is reached (e.g. grant of a new lease to a new tenant).

EPC validity

Once an EPC reaches its ten year expiration date, there is no automatic requirement to renew it until a legal trigger point is reached (e.g. the property is let to a new tenant, is sold or is modified to have more or fewer parts than it originally had). There is also currently no requirement to produce a new EPC after carrying out energy efficiency improvements (although a post-improvements EPC would be the easiest way for a landlord to demonstrate they have complied with the regulations).

Understanding MEES Trigger Points

Until 1st April 2020, it is a change to a tenancy which is the 'trigger' point for MEES compliance. Expiry of an EPC alone does not have any direct impact on a currently tenanted dwelling. It is therefore important to understand the various scenarios which trigger the requirement for a landlord to comply with the MEES regulations.



If a tenancy changes, and the most recent EPC lodged on the Central Register has a rating of F or G, MEES will be triggered and the landlord is required to comply with the regulations. For the purposes of MEES, a tenancy change occurs when:

- The property is let to a new tenant on a new tenancy agreement
- The original tenant sub-lets the property to a sub-tenant (in which case it is the responsibility of the original tenant to ensure the property is MEES compliant as they become the 'landlord').

Relevant tenancy types

For the purposes of the MEES regulations, the relevant tenancy types are:

Assured Tenancies (defined in the Housing Act 1988): In the majority of cases, rented residential accommodation in England and Wales will be let under an **assured shorthold tenancy** as this is the most common type of assured tenancy in use in the private rented sector. An assured tenancy is the letting of a dwelling which is occupied as the tenant's principal or only home (or by at least one person if they are joint tenants). The tenant or tenants must be individuals (i.e. not a business).

A dwelling let under an assured tenancy may be a self-contained unit such as a house or flat, but for the property to qualify as a dwelling the tenant needs only to have exclusive occupation of at least one room, such as a bedsit, even though it is non self-contained. Non self-contained accommodation of this kind is **not** required to have an EPC so it will be outside the scope of the Regulations, unless it is part of a building which itself is required to have an EPC (e.g. because the building itself has been built, sold, or let out as a single property within the past ten years).

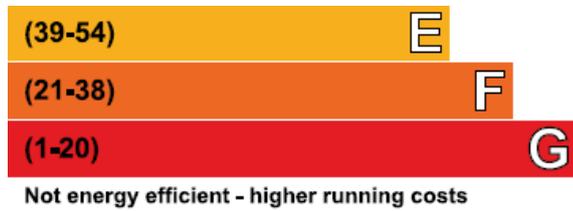
Regulated Tenancies (defined in the Rent Act 1977): these are often referred to as 'Rent Act protected' tenancies, and were the main form of letting in the private rented sector before the introduction of assured tenancies in January 1989.



Where a property let on a regulated tenancy has been let continuously to the same tenant prior to 1st October 2008 (when EPCs were introduced for rented properties), it is likely that the property will not have an EPC (and may not be legally required to have one). In this case the property will be excluded from the requirement to meet the minimum standard.



However, if the property was sold or a new tenancy granted after 1st October 2008, the property will have legally required an EPC therefore will be required to meet the minimum standard.



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If the EPC rating is F or G, improvements will be required by **April 2020** at the latest, or sooner if a new tenancy is granted before this date.

Agricultural Tenancies

A dwelling let on an agricultural tenancy, and which legally requires an EPC, must comply with the minimum standard. For the purposes of the MEES regulations, the following tenancy types are considered to be 'agricultural tenancies':

- A tenancy which is an assured agricultural occupancy for the purposes of section 24 of the Housing Act 1988
- A tenancy which is a protected occupancy for the purposes of section 3(6) of the Rent (Agriculture) Act 1976
- A statutory tenancy for the purposes of section 4(6) of the Rent (Agriculture) Act 1976



MEES Exemptions

Under certain circumstances, a landlord may be able to claim exemption from the MEES regulations. In such cases, the exemption must be registered on the **National PRS Exemptions Register** which was launched in October 2017. Landlords have been able to register exemptions for a property since 1st April 2018.



Exemptions last for **five years**, apart from where it relates to a tenant not giving consent (in which case it is five years or when the tenant vacates the property, whichever is sooner) after which time the landlord must again attempt to improve the energy efficiency of the property to a minimum of an EPC Band E. If this is not achievable after spending £3,500 inclusive of VAT then a further exemption may be registered. Registered exemptions cannot be passed to a new landlord if the property is sold – in this scenario the new owner would need to either improve the property to the required standard or register a new exemption.

Under what circumstances can a landlord register a MEES exemption?

Exemptions would normally apply in the following circumstances:

- ❏ All the relevant energy efficiency improvements for the property have been completed (or there are none that can be carried out) and the property remains below an EPC Band E
- ❏ Where energy efficiency improvements to the property do not result in a SAP score of 39 (Band E) after the landlord has receipts to evidence a spend of up to £3,500 (inclusive of VAT).
- ❏ Where a certain measure cannot be installed due to its negative impact on the building's fabric/structure (e.g. wall insulation)
- ❏ Third party consent cannot be obtained - this could include planning permission or consent from the tenant or superior landlord
- ❏ Installation of certain measures would reduce the property's market value by >5% - this would need to be evidenced by Chartered Surveyor's Report

A temporary exemption will also apply where a person has become a landlord unexpectedly (e.g. they may have inherited a rented property) but this will only last for six months, after which the property will be required to comply with MEES or an exemption registered.

A previously lodged exemption, on the grounds of 'no upfront costs' will expire on 1st April 2020 and not run for the five year term which was legislated when the exemption was lodged.



Enforcement

Non-compliance with MEES will be enforced by Local Authorities, who can choose which department they wish to use. Typically, this will be either Environmental Health or Trading Standards.

Where an EPC is legally required for a property, local weights and measures authorities (Trading Standards) are responsible for enforcing the regulations requiring an EPC to be made available.



A compliance notice may be served by the enforcement authority up to 12 months after a suspected breach of the MEES regulations and they may request copies of the following information:

- the EPC that was valid on the date the property was let
- the current tenancy agreement used for renting the property
- any Green Deal Advice Reports relating to the property

Where the Local Authority chooses to impose a fine, the level of financial penalty is at their discretion, up to the maximum limits set by the MEES regulations.

Maximum penalties for non-compliance are as follows:

- letting a sub-standard property for less than 3 months - up to £2,000
- letting a sub-standard property for 3 months or more - up to £4,000
- registering false or misleading information on the PRS Exemptions Register - up to £1,000
- failing to comply with a compliance notice - up to £2,000



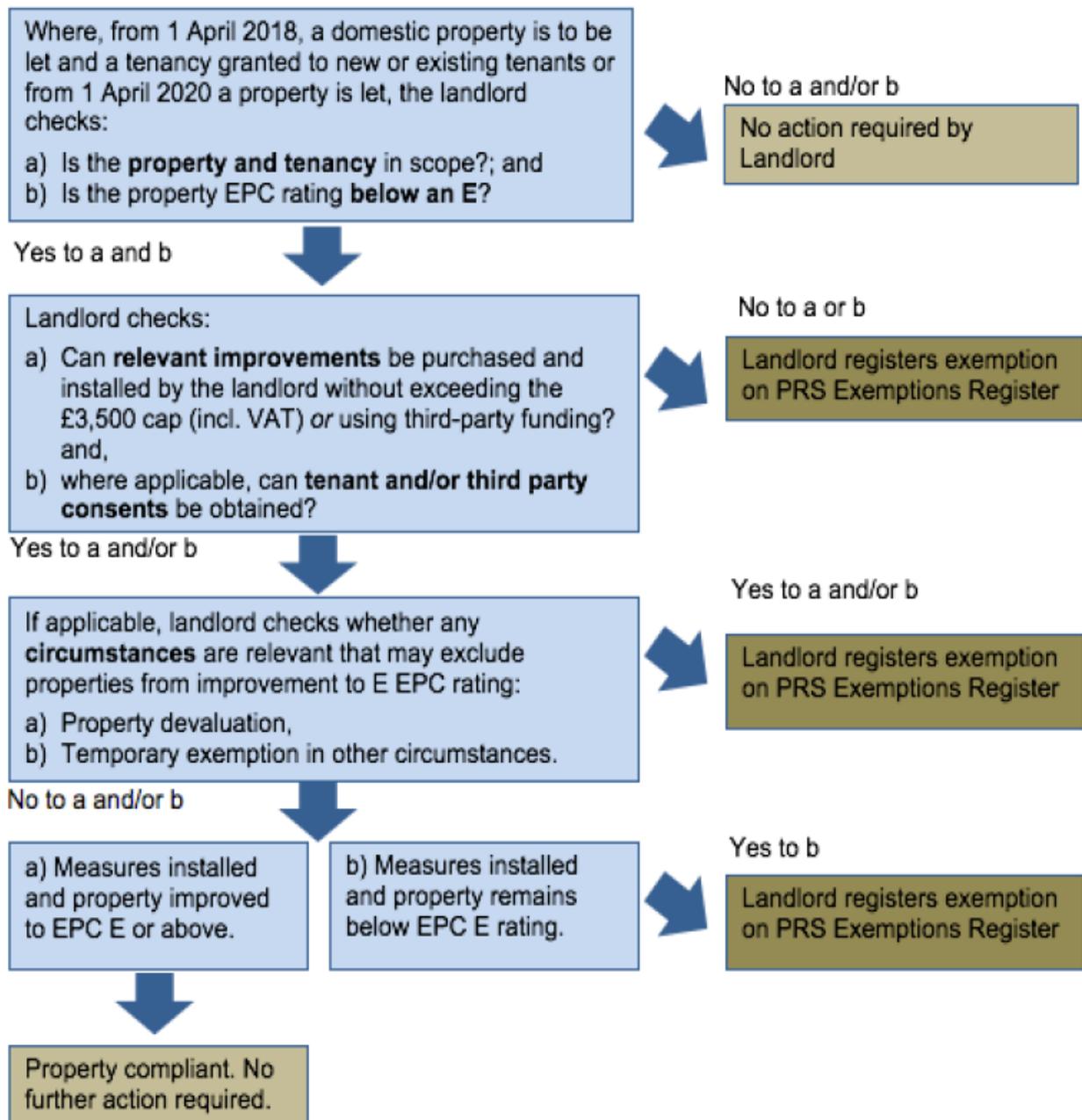
The total amount of financial penalty per property (and per breach) cannot, under current legislation, be more than £5,000. The above penalties may also be accompanied by publication of the specific breach on the public exemptions register.

The landlord has the right of appeal if he or she believes any of the following apply:

- the penalty notice was based on an error of fact or an error of law
 - the penalty notice does not comply with a requirement imposed by the Regulations,
- OR** it was inappropriate to serve a penalty notice on them under the particular circumstances.



Minimum level of energy provisions flow chart



Also:

For clarification on the items above refer to the Domestic Private Rented Section Minimum Standard Document by clicking [here](#)

EPC must be less than 10 years old at the date changes are made to an existing tenancy or a new tenancy commences.



Improvement tips for landlords

There will almost always be multiple paths available to bring a Band F or G rated property up to an EPC Band E. In many cases a single measure such as insulating solid walls or updating a heating system will be sufficient to achieve an E rating or better.

There are several simple ways to help improve the EPC rating at little or no cost and these include the following:

- Install low energy lighting - this will not increase the EPC rating significantly but swapping existing bulbs is inexpensive and does not require specialist installation
- Apply draught proofing to old doors and windows
- Ensure the hot water cylinder is well insulated
- Retain all documentary evidence relating to any improvements installed. This is particularly important if a property has had a loft conversion or if floor or internal wall insulation has been installed. Where these installed measures are not visible to the assessor (and therefore cannot be recorded on site) relevant documentary evidence can be used when the EPC is produced.



Heating systems: A common feature of sub-standard properties is the fuel type used. Single rate electricity scores badly therefore properties utilising panel heaters alone will often attract a low rating.

This can be improved by installing High Heat Retention (HHR) storage heaters (and where necessary, changing the meter to dual tariff). At least one HHR heater within a dwelling is required for the EPC to show this as the main heating system.



Existing boiler systems can be improved at relatively low cost by upgrading heating controls.

LPG is another fuel which attracts a poor EPC rating as it has the second highest price per unit in RdSAP. Often the location of the property will dictate the fuel types available but switching to a solid fuel burning system or storage heaters (with a dual tariff meter) will greatly improve the EPC rating.





Wall construction: another common feature of poorly performing properties is wall construction. Solid brick walls in particular will often attract a lower EPC rating than other types such as cavity walls. However, updates to RdSAP in November 2017 (version 9.93) included improvements to the assumed (default) U-values of solid walls. As a consequence this could mean that some properties, which previously scored below band E under RdSAP 9.92, might achieve a higher rating if assessed using the updated methodology.



Should you have any queries or need assistance, please call our Energy Assessor Technical Support Team on 01455 883 257 or e-mail us at: existingdwellings-support@elmhurstenergy.co.uk
(Opening hours: Monday – Friday, 9am -5pm)

DEA CPD Courses. Fulfil your annual requirements

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Elmhurst continues to run training and CPD events nationwide, from Edinburgh to Exeter. Our training is delivered by experienced and qualified assessors to ensure you can learn at your own pace, and leave feeling confident about putting what you've learned into practice.

Below is a list of CPD events we are running throughout the year:

CPD/ Training Course	CPD Hours
<u>RdSAP Refresher</u>	5 Hours CPD
<u>Unpicking RdSAP</u>	5 Hours CPD
<u>Auditing Moving Forward</u>	5 Hours CPD
<u>Legionella Control for Property Management</u>	5 Hours CPD
<u>Common Helpdesk Queries</u>	5 Hours CPD
<u>Inventory</u>	6 Hours CPD
<u>Retro-fit</u>	10 Hours CPD
<u>Property Photography</u>	5 Hours CPD
<u>Heating and Renewables</u>	5 Hours CPD
<u>DEA Conventions</u>	5 Hours CPD

If there is a group of you looking to undertake some CPD, Elmhurst can deliver courses in a location of your choice!

If you would like further information please contact **01455 883 250**

