

## Busy start to the year

**The start of 2018 has been a particular busy time within the private rented sector. Several consultations have been launched, one on energy efficiency, and there are new Minimum Energy Efficiency Standards (MEES) with which to comply.**

The 1 April 2018 has arrived, and MEES is now in force. All landlords of privately rented domestic and nondomestic property in England or Wales must ensure that their properties reach at least an Energy Performance Certificate (EPC) rating of an E before granting a new tenancy to new or existing tenants. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 establish a minimum level of energy efficiency for privately rented property.

The simplest way in which to understand MEES and when it will affect you is to understand the trigger points. The trigger points for MEES will be granting a new tenancy to a new or existing tenant. At this point, if an EPC is legally required for the property, then the rules contained in MEES will apply for that renewal.

The trigger dates set out in the regulation are: **1 April 2018** – It will be unlawful to grant a new agreement with an EPC rating below an 'E', including granting a statutory periodic tenancy agreement. From this date an energy rating below 'E' will be a 'substandard property' (though plans exist to increase this to D and then C). It is the substandard properties that will be restricted.

From the **1 April 2020** – Landlords must not continue to let a substandard property, even to an existing tenant on an assured shorthold or regulated tenancy. The regulations will only apply to residential privately rented property which are required to have an EPC.

This will **not** require all properties banded F or G to be removed from the market. Landlords that own properties banded in an F or G will be able to apply for exemption from complying with MEES if they can demonstrate one of the following:

- All improvements have been made to the property that can be made, but it remains a band F or G.
- Funding is not available for the improvements needed. This is due to the basic rule that improvements needed should not have to be funded by the landlord.
- Consent to undertake works is refused by a third party, such as a local authority or the tenant.
- A suitably qualified expert provides written advice that the improvements would result in devaluation of the property by 5% or more, or that the works would cause damage to the property.
- Exemption of six months for a new landlord taking ownership of a property. Evidence will be required of the purchase or inheritance.

Normally exemptions last for five years and will need to be lodged on the PRS exemptions register. If the exemption is based on the tenant refusing consent, the five year exemption will lapse when the tenant leaves and the work will have to be done.

On 28 December 2017, the Government launched another consultation regarding MEES. The discussion is around whether landlords should be required to fund some improvements and if so, how much should they fund.

The current proposal is for landlords to fund improvements to the 'total value' of £2,500 per property. 'Total value' means that this would be £2,500 including any Green Deal or ECO funding. This proposal is designed to 'future-proof' the regulations and make them as effective as possible, while protecting landlords against excessive cost burdens.

With a cost-cap, domestic landlords would need to spend enough on improvements to get them out of bands F or G, or spend up to the value of that cap. A range of additional, alternative, cap options are set out in the consultation and the associated consultation impact assessment. The consultation closed on 13 March 2018 and it is expected that any changes to the new rules will come into force in April 2019. It is proposed that any exemption registered that is based on not being able to get funding, will lapse in April 2019. The landlord will then have to do the works within the £2,500 budget and register an exemption if the property is still substandard.

It is currently estimated that by 2021, a quarter of households in the UK will rent privately. The introduction of MEES will help to ensure lower energy bills, aiding many of these households within the private rented sector out of fuel poverty.

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