Introduction to MEES

New regulations for non-domestic private rented sector come into effect from April 2018, implementing the UK Energy Act of 2011. The secondary regulations, The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, known in the industry as the Minimum Energy Efficiency Standard (MEES), have now been confirmed and passed into law. The key points to note are:

- Minimum Energy Efficiency Standard (MEES) make it unlawful for properties with F or G Energy Performance Certificates (EPC) to be let, without implementing cost-effective energy efficiency improvements or fulfilling an exemption criterion.

- Minimum Energy Efficiency Standards (MEES) come into effect on 1st April 2018 for new leases and lease renewals/extensions where there is an EPC already.

- MEES comes into effect on 1st April 2023 for all existing leases.

The detail

What's in scope?
- MEES applies to multi-let and FRI leases
- MEES applies where a property is required to have an EPC under existing regulations and where an EPC already exists
- MEES will apply to sub-lets
- MEES will apply where there is a leases over 6 months and under 99 years in length

When will exemptions apply?
- There are a number of exemptions including where a tenant refuses consent for energy efficiency works and where the works would have a negative effect on rental or capital value
- Exemptions should be evidenced, will expire after 5 years and will not transfer with a sale of the property to a new owner
- Trading Standards will need to be notified on any exemptions to MEES, which will be lodged on a central register
- Penalties for non-compliance begin at £5,000, rising to a maximum of £150,000

2018
Minimum ‘E’ EPC for new leases and renewals/extensions

2023
Minimum ‘E’ EPC for all leases

This briefing focuses on the non-domestic regulations - please see our Residential MEES Briefing for further detail on how this will impact the domestic private rented sector.

1 Cost-effective improvements must meet the simple payback rule of a 7 year payback or Green Deal's Golden Rule that the expected savings must be greater than the cost
JLL can help you to manage EPC risk

You should establish how best to manage your EPC risk now in order to effectively mitigate it with minimum capital cost. JLL is able to support you through each of the stages of the property life cycle examined below:

Further detail on each stage of the property lifecycle and associated JLL advice is provided in more detail overleaf.
Property lifecycle risks and solutions to MEES regulations

Each stage of the property lifecycle is examined here, explaining the main risks and implication for owners and occupiers and why you need to act, what JLL will do to help and when best to implement our recommendations.

Portfolio Risk Management

Why: For large portfolios the regulations could lead to significant risk to value, extending void periods, retention of occupiers, rental values, liquidity and capital expenditure demands.

What: To understand your risk exposure within the portfolio a sound risk management approach is needed. JLL will help you gather data, create an EPC risk register, undertake an assessment against any compliance failures, provide detailed risk analysis to highlight rental and capital value at risk and prepare a prioritised strategy to address the most significant risks in the portfolio.

When: Now – prioritising action over a 3-year plan will help manage risk more effectively and potentially minimise costs.

Acquisition

Why: Understanding the likely impacts of a poorly rated EPC on capital value at acquisition requires robust due diligence and a strategy for mitigating any threat to investment performance.

What: JLL will help you identify these risks right at the start of appraising an investment opportunity, enabling you leverage during negotiations any strategic advice provided at pre-acquisition stage.

When: At the start of the instruction to leverage the most appropriate strategy during negotiations.

New Lettings

Why: The most tangible impact of the regulations is on new lettings. In some case extended void periods and capital expenditure will be required to undertake EPC uprating works in advance of leasing a building.

What: JLL will help you appraise the most cost effective solution to uprating the EPC in your building, integrating the benefits into the leasing strategy and negotiation of lease terms.

When: When you know a void is imminent.

Lease Advisory

Why: Where an existing tenant is in situ, they may use the regulations to negotiate improvements which the Landlord may be obliged to arrange. Additionally, a Landlord may need to demonstrate an exemption to the regulations if tenants refuse consent to EPC upgrade works.

What: JLL can offer advice on how to manage EPC risk during lease negotiations to minimise the cost of compliance for Landlords.

When: During lease renewal or lease extension negotiations

Refurbishment

Why: One of the most cost effective ways to manage obsolescence risk is to ensure that it is managed out during a refurbishment or redevelopment project.

What: Create refurbishment guidelines and establish a project brief and design specification which will mitigate obsolescence risk.

When: When developing the project brief and the design specification.

Property Management

Why: In order to de-risk a portfolio over time, an integrated strategy should be delivered which improves the EPC rating of a building as part of existing property management practices.

What: Develop minimum fit-out specifications, preventative maintenance programmes and reinstatement provisions which aim to protect or increase the EPC rating. Monitor tenants to ensure they do not have a negative effect on the EPC rating.

When: Now.

Selling

Why: A poorly rated EPC can impact upon your ability to sell the building for full market value to a wide group of potential buyers.

What: JLL will ensure that any exit risk is identified in advance of bringing the building to market so that it can be mitigated in the most cost effective way.

When: In advance of marketing the building ensure a plan is in place to demonstrate that the risks are addressed to limit price negotiations and to achieve full market value.
MEES Timetable and criteria for compliance

We would encourage all clients to start acting now to assess portfolio risk, implement improvement plans and educate staff on how to manage investments in potentially non-compliant properties.

Minimum Energy Performance Standards Timetable and Compliance Criteria

<table>
<thead>
<tr>
<th>Compliance Date</th>
<th>Tenancies</th>
<th>Compliance Extensions</th>
<th>Exemptions</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date by which all qualifying properties must have an E or better EPC rating</td>
<td>Tenures requiring compliance by this date</td>
<td>Landlords may be allowed a 6 month extension to comply in certain cases</td>
<td>Landlords may rent F or G rated properties in certain cases</td>
<td>Penalties are on a per property basis.</td>
</tr>
<tr>
<td>1 April 2018</td>
<td>New tenancies granted to new tenants&lt;br&gt;Renewal or extension of existing tenancies</td>
<td>A landlord is forced to offer a new lease involuntarily&lt;br&gt;A new landlord takes ownerships of a non-compliant property</td>
<td>All cost-effective measures have been installed; unable to obtain Green Deal finance due to poor credit of landlord or tenant; third party consent withheld; occupying tenant refuses consent where it is required; measures are expected to cause devaluation of more than 5% to the property;</td>
<td>Cumulative up to £5,000 for a single offense. Additional cumulative penalties up to £5,000 for non-compliance with initial penalty notice. Additional penalties awarded when tenant changes or 2020 regulatory backstop comes into effect</td>
</tr>
<tr>
<td>1 April 2023</td>
<td>All tenancies within the non-domestic PRS, including existing leases</td>
<td>A new landlord buys a non-compliant property</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you have any questions about the regulations and how you can prepare for compliance, please do contact us or visit our website – [www.jll.co.uk/sustainability](http://www.jll.co.uk/sustainability).