

Minimum Energy Efficiency Standards (MEES)

Guidance for landlords

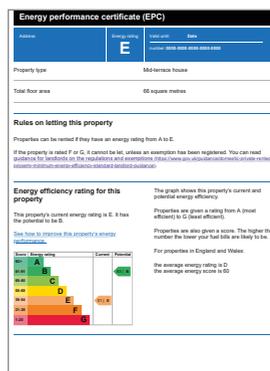


This booklet is an introduction to MEES - the “Minimum Energy Efficiency Standards” and how this regulation affects domestic rented property owners and landlords in the UK. Introduced into legislation in 2015, the regulation legally requires changes to be made to certain rented properties to improve their energy efficiency.

Energy Performance Certificate (EPC)

Most properties in the UK have an Energy Performance Certificate, or EPC for short. They are legally required whenever a property is built, sold, let or modified and provide the property with an Energy Efficiency rating on a scale from A to G and points 1-100. The MEES Regulations stem from this rating so let’s have a look at how EPC’s work:

1. An EPC certificate for a house is issued by a Domestic Energy Assessor (DEA) and requires an inspection of the property.
2. EPCs are valid for 10 years but can be replaced sooner if required. This often occurs when the property is upgraded.
3. EPCs are lodged or submitted to a central database known as the “EPC Register”. The most recently registered EPC for a property being known as the “valid EPC”.



4. A New EPC is not required each time there is a change in tenancy or a property is sold, providing the valid EPC is no more than ten years old.
5. A property owner, landlord or tenant can commission a further EPC within the ten-year-period; this is known as a “voluntary EPC”.
6. Once a new EPC has been lodged it automatically becomes the valid EPC for the property.
7. Once an EPC expires after ten years it only requires replacement at the next “trigger point”, typically this is when there is a change in tenancy, or the property is marketed for sale.

You can check the valid EPC for any property using the EPC register at: www.gov.uk/find-energy-certificate

Searching by post code is the most straightforward way to locate the records for a property. The most recently lodged EPC will be the valid one for the purposes of complying with the MEES regulations

You can search for a local Domestic Energy Assessor to carry out an EPC at: www.gov.uk/get-new-energy-certificate

Key Facts

- The Minimum Energy Efficiency Standards (MEES) were introduced by the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.
- These Regulations require that landlords comply with the minimum level of energy efficiency for domestic private rented property, unless a valid exemption is registered.
- The minimum standard is currently set at an E39 rated EPC but this could be increased in the future.
- The Regulations apply to all domestic rented properties in England and Wales which are:
 - a) let under certain types of domestic tenancy **and**
 - b) which are legally required to have an Energy Performance Certificate

- There is no blanket exemption for historic buildings.
- A cost cap is included in the Regulations and therefore the maximum you will need to spend on improvements is £3,500 inc VAT.

Relevant Tenancies

For the purposes of MEES the relevant tenancy types are:

- An assured tenancy (including an assured shorthold tenancy) defined in the Housing Act 1988.
- A regulated tenancy defined in the Rent Act 1977
- A domestic agricultural tenancy as set out in the Energy Efficiency (Domestic Private Rented Property) Order 201512 as follows:
 - 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 197
 - A statutory tenancy for the purposes of section 4(6) of the Rent (Agriculture) Act 1976.

Letting to family members

If your property is occupied by a family member and you do not share that accommodation with that family member and you charge them rent, it is highly likely that you have created an assured shorthold tenancy even in the absence of a written agreement. As the landlord, you will need to comply with the Minimum Energy Efficiency Standards. If you are unsure whether you have created a tenancy you should seek legal advice.

The Minimum Energy Efficiency Standards do not apply to those properties let on a licence rather than a tenancy. Again, you should seek legal advice if you are unsure of the type of legal agreement in place.

Legally required EPC and exclusions

If you are unsure if your property legally requires an EPC you should consider if the property which you let, has been marketed for sale or let in the past ten years? If either of these are true it will be very likely your property legally requires an EPC. If your property meets these criteria but it doesn't have an EPC you should arrange for an EPC to be carried out immediately.

However, for example, if your current tenant moved into your rental property prior to the 1st October 2008 and the property has not been marketed for sale either in this period the property will not require an EPC. In this situation if an EPC exists at the property and was undertaken for a different reason this will be classed as a “voluntary EPC” and the minimum standards will not apply as this predates the introduction of the legislation.

The EPC legislation also excludes a number of other building types from legally requiring any EPC and therefore also removing the MEES requirement. For domestic buildings these are:

- Historic buildings which cannot be improved without unacceptably altering their character or appearance (more about this below)
- Detached houses with a total useful floor area of less than 50m²
- Temporary houses with a time of use of two years or less.
- Houses which are used for less than four months of the year or for a limited time of use with an expected energy consumption of less than 25% of what would be the result of all-year use.

If you require further advice to clarify if your property legally requires an EPC you should either request independent legal advice or contact Trading Standards Business Advice Service at:

T: 0300 1234 191

E: businesscompliance@cornwall.gov.uk

www.cornwall.gov.uk/business-trading-and-licences/trading-standards/business-advice/

Action required

If you are planning to let a domestic property which has a current EPC rating of F or G, you will need to improve that property so that it achieves an EPC rating of at least E, before doing so, unless you are able to register a valid exemption. This must be done prior to starting a new tenancy.

If you are currently letting a qualifying property with an EPC rating of F or G, and you haven't already taken action, you must improve the property's EPC rating to at least an E rating immediately or register a valid exemption for not doing so. This is critical, you are very likely already in breach of the MEES regulations and could be fined up to £5,000 by your Local Authority.

If your F or G rated property is currently empty, and you are not planning to let the property, then you are not obligated to take any actions to improve the rating, until you decide to consider marketing the property again.

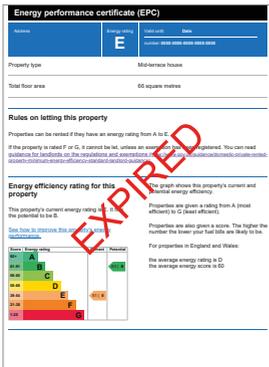
If the valid EPC is quite old, it could be worth having the property re-assessed as certain calculations for the EPC may have changed and there could be more cost-effective options for you to implement. Or you may have already made improvements since the EPC was carried out which could impact on the property's EPC rating. An experienced Energy Assessor may be able to provide assistance in finding easier and more cost-effective ways to achieve the E rating to meet the MEES Regulations.

Please be aware that where a breach exists in a private rented property Cornwall Council do not support landlords who choose to evict without attempting to raise the energy efficiency of the property first and will take a dim view of any landlord taking such action including issuing a maximum penalty amount for any existing or previous breach.

Expired EPCs

Once an EPC expires after ten years it only requires replacement at the next “trigger point”, typically this is when there is a change in tenancy, or the property is marketed for sale. So, if you have marketed the property for rent or sale since the expiry of the EPC then you must take action to commission a new certificate immediately as the legal requirement is that a valid EPC is commissioned when marketing for sale or rent (where no exclusion applies).

However, if your EPC has expired and you haven't since marketed the property you are not required to take any action including improving the property's energy efficiency, but you must not re-market the property without commissioning a new EPC first and if this newly commissioned EPC is also rated F or G you will be prohibited from issuing a new tenancy until improvements are made to increase the EPC rating to E or above.



Relevant improvements and the cost cap

A cost cap is included in the Regulations and therefore the maximum you will need to spend on improvements is £3,500 inclusive of VAT. You can count the cost of any relevant improvement undertaken at the property going back to 1st October 2017. So, the first thing you should always consider when working towards compliance is what energy efficiency improvements have been undertaken since 1st October 2017 and what evidence do you have of this.

The cost-cap is a “spend-up-to” figure and is not a fixed expenditure expectation. If the property can be improved to an E rating for less than the cost-cap, then that is all you are required to invest on improvements to the property. This cost-cap can also include 3rd party funding such as the award of ECO funding or other similar scheme towards the cost of the improvements. Receipts and invoices can be used as proof of this expenditure. To qualify these improvements must have been either listed as recommended improvements on the valid EPC report or be recommended on another type of professional report for example, a Green Deal Advice Report (GDAR), or reports produced by qualified surveyors. **General house repairs cannot be included.**



New high heat retention storage heater

It is always recommended that any improvements to the property are discussed with the current tenant and consent is sought where necessary before commissioning work. Where potential improvements involve changes to a heating system it is recommended that a tenant is requested to obtain an energy forecast from their current utility company before any decisions are made. If a change in heating system increases the overall running of the dwelling, that recommended improvement can be exempted using the national PRS exemptions register, if the tenant does not give consent. This situation can occur when switching a property from peak electric heating to off peak heating because of the changes in energy tariffs.

Exemptions

If a landlord is not able to improve a property to the minimum standard, a valid exemption must be registered on the national PRS exemption register. While the minimum standard is set at an E rating this is likely only going to be in very limited circumstances. In most cases there will be some low-cost measures available which if installed would raise the energy efficiency to an E rating or higher. Below is a brief overview of the exemptions available:

1. All relevant improvements made

Register this exemption if the property is still below EPC E after the improvements have been made up to the cost cap (£3,500 inc VAT).

2. No improvements can be made

As it would suggest to register this exemption the valid EPC for the property would need to be absent of any recommendations.

3. High cost exemption/cost to landlord exceed cap

If the recommended improvements all exceed the cost-cap of £3,500 then a high cost exemption can be applied for. There must be no low-cost measures available for this exemption to apply. In the exemption register choose “cost to landlord exceeds cap”.

4. Wall Insulation

Register this exemption if the **only** relevant improvements for the

property are:

- cavity wall insulation
- external wall insulation, or
- internal wall insulation; and

you have obtained written expert advice showing that these measures would negatively impact the fabric or structure of the property.

5. Third party consent exemption

Register this exemption if the relevant improvements for your property need consent from another party, such as a tenant, a superior landlord, mortgagee, freeholder or planning department, and despite your best-efforts consent cannot be obtained, or is given subject to conditions you could reasonably not comply with. You will need to provide correspondence and/or relevant documentation demonstrating consent had been sought and refused or subject to unreasonable conditions.

6. Property devaluation exemption

Register this exemption if you have evidence showing that making energy efficiency improvements to your property would devalue it by more than 5%. In order to register this exemption, you will need a report from an independent surveyor. This surveyor needs:

- to be on the Royal Institute of Chartered Surveyors (RICS) register of valuers
- to advise that the installation of the relevant improvement

measures would reduce the market value of the property, or the building it forms part of, by more than 5%

7. Temporary exemption due to recently becoming a landlord

This exemption is for new landlords under certain circumstances and includes taking ownership of a property which is already let to a tenant. If the property is currently F or G rated, as the new owner you can apply for a six-month exemption in which to obtain a better rating or to apply for one of the other exemptions, if applicable. For all other circumstances to which this relates please refer to the full government guidance: **The domestic private rented property minimum standard (publishing.service.gov.uk)**

How to register an exemption

- create an account at: **Have you used this service before - (PRRegister.beis.gov.uk)**
- enter the address of your property
- state the type of exemption you want to register
- upload all the required evidence, including a copy of a valid EPC for the property (the Register can accept pdf, png, jpg, jpeg, doc or docx files, with a maximum size of 4 MB per file)

Exemption data cannot be amended once the data has been submitted. Make sure you have checked everything carefully before submitting.

All exemptions apply from the point you register them, however you can only rely on the exemption if it is accurate and all supporting evidence has been uploaded. Although the register is a national register, individual submissions can be validated by the local authority in which the property is located at **any** time during the length of the exemption. If your exemption is found to be incorrect and therefore invalid, you may receive a penalty for letting a sub-standard property in breach of the regulations. It is therefore advisable to check with your local authority that they are happy with your exemption before submitting it. Further guidance on exemptions can also be found here: **Guidance on PRS exemptions and Exemptions Register evidence requirements - GOV.UK (www.gov.uk)**

If you improve an exempt property to E after having registered an exemption (or stop renting the property out) you can cancel the exemption by going to your account 'dashboard' page and selecting 'View or manage my exemptions.

If support is required to register an exemption you can email: **PRSRegisterSupport@beis.gov.uk** or call the digital helpline on **0333 234 3422**.



Historic buildings

There are special rules relating to listed or historic buildings and you are not obligated by MEES to undertake improvements which the local Conservation Officer would refuse permission for. However, it is very important to note that there is no blanket exemption related to the age or status of historic buildings and you must still take action to improve the energy efficiency of the building where it would be permitted. If you are unsure which works may require permission or the likelihood of you being granted this permission, you should speak with your Local Authority Planning Department or visit their website. Cornwall Council has a dedicated leaflet to inform the owners of historic buildings in relation to MEES and how an exemption can be applied using the Planning MEES exemption service: **Minimum Energy Efficiency Standards (MEES) Requests for Exemptions - Cornwall Council**

Further assistance and funding

Cornwall Council recognises that it is not always easy or straight forward to work out the most affordable way to improve the energy efficiency of a property. The Council are therefore working in partnership with Community Energy Plus (CEP) to provide a dedicated support service for landlords to assist them to achieve compliance and navigate the different funding sources available. Further details can be found on the CEP website: **Community Energy Plus : Independent Energy Experts (www.cep.org.uk)** or by calling **0800 954 1956** and asking for the landlords support service.

Enforcement and penalties

Non-compliance with Minimum Energy Efficiency Standards can lead to a penalty of up to £5,000. A local authority can serve a Compliance Notice on a landlord if they suspect there has been a breach of the Regulations up to 12 months after the breach, which if confirmed can then lead to the issuing of a penalty notice up to £5000 each time you let the property up to 18 months after the breach. The maximum penalty amounts apply per property and per breach of the Regulations.

They are:

- up to £2,000 and/or publication penalty for renting out a non-compliant property for less than 3 months
- up to £4,000 and/or publication penalty for renting out a non-compliant property for 3 months or more
- up to £1,000 and/or publication for providing false or misleading information on the PRS Exemptions Register
- up to £2,000 and/or publication for failure to comply with a compliance notice

So please do not ignore any correspondence you receive from the local authority.

Other considerations

MEES is not the only standard you will need to comply with when you rent out a domestic property. The main piece of legislation governing the standard of your rental property is the Housing Act 2004 which legislates using an inspection system known as the Housing Health and Safety Rating System. You will need to ensure your property also meets our rental standard derived from this legislation. To find out more, support and advice is given to landlords through the Cornwall Responsible Landlords Scheme (CRLS) where you can have access to the Rental Standard which

covers the hazard of excess cold, together with other legal requirements for your rental property. The scheme is set up and managed by officers from the Private Sector Housing Team, and also offers landlords and agents the ability to ask questions and receive newsletters on a range of subjects to do with renting properties. It's quick, free and easy to join. We only need an email address to allow us to make contact. You'll find a link to joining the Cornwall Responsible Landlord Scheme: **Cornwall Responsible Landlord Scheme (Cornwall Council)** or call **01209 615629**.

In relation to MEES you must ensure that any intended changes to a property's heating system or insulation also meets our rental standard. If in doubt you should join the scheme and seek advice.

Contact us

If you have any comments or queries please email:

PSH@cornwall.gov.uk

Or call us on:

01209 615629

If you would like this information in another format or language please contact:

Cornwall Council, County Hall,
Treyew Road, Truro, TR1 3AY

e: customerservices@cornwall.gov.uk

t: 0300 1234 100