

Minimum Energy Efficiency Standards (MEES) Regulations Impact on Christie + Co clients

The MEES Regulations 26 March 2015 are due to come into effect in **April 2018** and will affect the leasing of commercial properties with an EPC rating of less than "E". From that date it will become **unlawful for commercial and residential landlords of properties with an EPC rating of less than "E" to grant new leases, or renew tenant leases**, except in the following cases:

Exemptions

- Listed buildings, **if the recommendations to get it higher than an F would affect the listing**
- Properties with a short lease (6 months or less) or with a long lease (greater than 99 years)
- Exemptions also arise when:
 - All cost effective improvements with a simple payback period of 7 yrs have been undertaken.
 - A landlord is unable to obtain third party consent, for example from the planning authority, lender, superior landlords, sitting tenant etc.
 - An independent surveyor determines that the energy efficiency improvements would devalue the property by more than 5%.

Exemptions last for **5 years** and to qualify for an exemption a landlord must register the property on the Private Rented Sector [PRS] Exemptions Register – which will be available from **October 2016** onwards - stating the reasons for the exemption.

Impacts

In all other cases, the landlord will need to undertake the necessary works to upgrade their property's EPC rating to at least "E", before April 2018, otherwise they will not be allowed to grant or renew leases on that property.

If a non-compliant property occupied by a tenant is **sold**, or is transferred to a lender in the case of receivership, the new owner/landlord has **6 months to comply** with the regulations - an important due diligence consideration for prospective purchasers and occupiers.

Note: The regulations will not apply to owner-occupied properties, and initially they will also not apply to existing leases not requiring renewal. **From 1 April 2023 however, 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 by a tenant.

The penalties for renting out a non-compliant property will range from £5,000 to £50,000 in proportion (10%) to the rateable value. The penalty for providing false or misleading information will be £5,000 and publication of the landlord's name in the PRS Exemptions Register.

Advice for our clients

We recommend to our clients that they:

- a) Determine which, if any, of their properties may be exempt and ensure that these are listed on the PRS Exemptions Register
- b) Identify their properties currently with an E, F or G rating
- c) Ensure that existing EPCs are accurate
- d) Carry out new EPCs where required, paying close attention to those created shortly after EPCs were introduced in 2008 and those where the rating was calculated using default settings.
- e) You should also be aware that over time the acceptable energy standard is likely to rise above the current minimum of "E". The Secretary of State will review the position every five years. So we recommend landlords also consider the long-term potential cost-efficiency of developing a programme of improvement works for properties with ratings C, D and E.