



CONTACT

Tim Holt
07768 046615
tim.holt@rapleys.com

The Minimum Energy Efficiency Standards (MEES) regulations come into force in two months' time. From 1 April 2018, commercial property must have a minimum Energy Performance Certificate (EPC) rating of 'E' or above in order to be let. The MEES regulations will apply to the renewal of existing leases and may also have an impact upon future lease events, such as rent reviews and break options occurring after 1 April 2018.

The changes in MEES regulations are likely to affect property owners and existing tenants throughout the UK. So, to minimise the impact, forthcoming lease event dates for any sub-standard property should be identified quickly.

Firstly, landlords would be well advised to ensure that [lease renewals](#) for properties with an 'F' or 'G' rating are completed before the MEES regulations become mandatory on 1st April 2018.

Landlords should also ensure that [new leases](#) restrict a tenant from obtaining a new EPC, other than for when one is actually required i.e. in connection with an assignment or the grant of a subletting. This is because a new 'F' or 'G' rated EPC obtained by the tenant may place an obligation upon the landlord to carry out improvement works in order to bring a sub-standard property up to the minimum 'E' rating. Equally, landlords should ensure that sufficient rights are reserved in new leases to enable them to enter the premises in order to carry out any works that may be required.

Where [existing leases contain breaks](#) which may be effective after 1 April 2018, we would advise landlords to establish that the EPC rating of the property is 'E' or above. Again, if this was found to be sub-standard it would place an obligation on the landlord to carry out improvements to enable the property to be re-let. Tenants will no doubt appreciate that this situation could also assist

them during negotiations with the landlord over whether or not to exercise a break.

For 'F' or 'G' rated properties that are subject to [rent reviews](#) occurring after 1 April 2018, whilst a letting might not be possible in the real world without energy efficiency improvements being carried out, a number of questions may arise in the hypothetical world of the rent review:

- Where the lease provides an assumption that the tenant has complied with its covenants and/or statutory obligations, this would effectively result in an assumed increase in the EPC rating to 'E'. In this case, the landlord of a sub-standard property may seek to achieve a higher rent than that which might ordinarily be possible.
- A tenant may argue that the rental value should be reduced because the landlord will not, in reality, be able to let a sub-standard property.
- Where the cost of energy efficiency improvements carried out by the landlord is recoverable through a service charge, the tenant may seek to adjust their rental bid to reflect this situation.

It is therefore essential for both property owners and tenants alike to consider the impact the MEES regulations will have on future lease events.

Rapleys can help with this and if you require any further information, please contact **Tim Holt**. (Partner in the Retail & Leisure Group).