

Government issues guidance on MEES Regulations Exemptions



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On 22 May this year the government issued guidance on the exemptions to the *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (SI 2015/962)* (**MEES Regulations**) and the evidence required in support of an application to the Exemptions Register.

Overview

While the MEES Regulations apply to both domestic and commercial properties, as the treatment of the two is different, this article considers their application only in relation to commercial properties.

The MEES Regulations require that properties to which the MEES Regulations apply must achieve a certain level of energy efficiency before they can be let, and prohibit a landlord from granting a new lease of a sub-standard property (currently one with an EPC rating lower than band E) on or after 1 April 2018, or continuing to let a property on or after 1 April 2023, unless the landlord either undertakes measures to improve the property to the necessary standard, or one of the exemptions apply.

In order that the relevant exemption can be relied upon, the landlord must register it on the Exemptions Register (an online register accessed via <https://prsregister.beis.gov.uk>). This is a self-certification process and the exemption will apply from the date it is registered.
The exemptions and evidence requirements

There are six exemptions that apply to commercial properties, which are set out below, together with a brief summary of each and the guidance issued regarding the evidence required in support of the application to the Exemptions Register.



| | Exemption | Nature of Exemption | Information required in support of application to the Exemptions Register | Duration of Exemption* |
|---|-----------------------------------|---|---|---|
| 1 | '7 Year Payback' Exemption | The prohibition on letting sub-standard property will not apply if the landlord can show that the expected value of the savings on energy bills the energy saving measure is expected to achieve over a period of 7 years is less than the cost of purchasing and installing the recommended measure. | <ul style="list-style-type: none"> • 3 quotes for the cost of purchasing and installing the measure; • Confirmation that the landlord is satisfied the 7 Year Payback Rule applies • A copy of the cost calculation to support this confirmation | 5 years |
| 2 | 'All Improvements Made' Exemption | This applies where all the 'relevant energy efficiency improvements' (there is separate guidance on the meaning of this) have been made but the property is still sub-standard. | <ul style="list-style-type: none"> • A copy of the EPC if the landlord is relying on information contained in it (an EPC must accompany every application in any event) • A copy of any separate report the landlord is relying on. | 5 years |
| 3 | 'Consent' Exemption | Certain measures may require third party consent (e.g. from a local authority, superior landlord or the current tenant of the property). The exemption applies where this consent has been sought and refused or granted subject to unreasonable conditions. | <ul style="list-style-type: none"> • Any correspondence and/or documentation demonstrating that consent had been sought and refused or granted subject to unreasonable conditions. | 5 years – but note that where the required consent was of a tenant, the exemption will only remain valid for as long as that tenant remains the tenant. |
| 4 | 'Devaluation' Exemption | The exemption applies where, because of the energy efficiency measure, the market value of the property would be reduced by more than 5%. | <ul style="list-style-type: none"> • A report from an independent RICS surveyor that the installation of the relevant measures would devalue the property by more than 5%. | 5 years |

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| 5 | 'Wall Insulation' Exemption | Where the recommended energy efficiency measure relates to cavity wall insulation, external wall insulation or internal wall insulation (for external walls) and the landlord has obtained expert advice indicating that the measure is not appropriate for the property due to the potential negative impact on the fabric or structure of the property, it will not fall foul of the MEES Regulations. | <ul style="list-style-type: none"> A copy of the expert report stating the property cannot be improved above sub-standard by a wall insulation measure as this would adversely affect the property. <p>The report must be provided by an accredited, architect, engineer, building surveyor or architectural technologist.</p> | 5 years |
| 6 | 'New Landlord' Exemption | <p>The exemption applies where either: -</p> <ul style="list-style-type: none"> the person becomes landlord on purchasing a property subject to an existing lease (or leases); or a person has become a landlord 'suddenly' in certain circumstances (the prescribed circumstances are set out in the MEES Regulations and relate to scenarios outside the new landlord's control); <p>in which case the new landlord has a grace period in which to comply with the MEES Regulations, or register a further exemption</p> | <ul style="list-style-type: none"> Evidence of the date on which the landlord became landlord and an explanation of the circumstances pursuant to which they became landlord. | 6 months |

* Any registered exemption will fall away on the transfer of a property, so any new owner would need to register its own exemption.

It is also worth noting that every application to the Exemptions Register must clearly specify the property address, the exemption being relied upon, and be accompanied by a valid EPC for the property.

If you have any questions in relation to this article, or the MEES Regulations generally, please do not hesitate to contact us.