

Minimum Energy Efficiency Standards (MEES) 2018 - Impact on Leases of Commercial Property

This Bulletin contains information about recent changes to pensions law and regulation which may affect our clients. Please read the information carefully and contact your financial adviser if you have any queries.

On 1 April 2018 (MEES) restrictions on let properties will take legal effect. Many commercial property owners are unaware and unprepared for the impact of the MEES. The principle behind MEES is that it will become unlawful for landlords to let premises falling below a certain level of energy efficiency. The Energy Performance Certificate (EPC) regime measures energy efficiency. Following MEES a property with an EPC rating below an E will not be able to be let without complying with scheduled improvement works to improve the rating. From 1 April 2018 this restriction will apply to any new leases, including the extension or renewal of an existing lease. From 1 April 2023 this restriction will be extended to also apply to existing leases.

If a landlord lets property in breach of the regulations while the lease will still be valid and legally binding the landlord will risk substantial financial penalties and being 'named and shamed' on a publicly accessible register.

How can pension scheme members with property investments react now to reduce risk?

1. Check the EPC rating of the building and consider the EPC recommendation report. If the rating is F or G the member should let us know and keep us updated with subsequent action taken.
2. If the EPC has an F or G rating, start looking now at carrying out works to bring the building up to the required minimum standard or take advice on whether an exemption may apply.
3. If an EPC has an E rating or above, check the expiry date as overall efficiency standards have increased since EPCs were introduced nearly 10 years ago, so there is no guarantee that a renewal EPC will achieve the same rating.
4. If putting a lease in place, instruct the solicitor to incorporate clauses mitigating against future MEES risk.
5. If opportunities for negotiation with tenants arise (for example on lease renewal, regearing or break rights) consider undertaking energy efficiency improvement work: this benefits the tenant by reducing their outgoings.
6. If looking at a prospective purchase, ensure that an EPC is provided at the outset as where the EPC has an F or G rating we may refuse to accept these into the pension scheme due to the financial risks and impact on future marketability, capital and rental value of the property.

We will continue to monitor developments and will update our literature and website when further information becomes available.

About this document

This Update is based on our understanding of the recent changes to pensions law and regulation.

Every care has been taken to ensure that it is correct. It is issued by DP Pensions Ltd for use by Pension clients and their advisers.

Please note that DP Pensions Ltd and D A Phillips & Co Ltd are not authorised to give financial advice. We do not know all of your circumstances or details of any other pension schemes of which you are a member. You should contact your financial adviser for help on how this legislation may affect you personally.

No responsibility to any third party is accepted if this information is used for any other purpose. The legislation and HMRC practice may change in the future.

If you have any queries regarding the information in this Bulletin and how it affects your circumstances then please contact your financial adviser.

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